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L I F E

O F

WILLIAM PLUMER,

BY HIS SON,

WILLIAM PLUMER JUNIOR.

EDITED,

WITH A SKETCH OF THE AUTHOR'S LIFE,

BY

A. P. PEABODY.

BOSTON:  
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## P R E F A C E .

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THIS work was left, by its lamented author, nearly complete in a first draught. It was his design to append a closing Chapter, and materials for this were found among his papers. These would have been wrought into something resembling the form and dimensions originally designed, had not the length of the Memoir rendered it inexpedient. On this account, the Editor has contented himself with adding to the Thirteenth Chapter, as it came to his hands, a very small portion of what would have constituted the Fourteenth. In preparing this volume for the press, our limits have obliged us to omit numerous incidents, letters, and memoranda, of equal interest with those inserted, but less essential to the continuity and perfectness of the narrative.

As regards the opinions expressed or implied in this work, the Editor can hardly need to say, that he has, in no case, suppressed or modified them, when they differed from his own. Having been born and educated in the very heart of Massachusetts Federalism, while he cannot for a moment doubt the authenticity of the statements of fact here recorded, with reference to the Federal party, he is not always prepared to assent to the inferences drawn from them. He deems them, however, worthy of the most respectful consideration, as the deductions of one, whose position gave him opportunities of keen insight, and whose calm, dispassionate, candid habits of thought, speech, and writing, impart added weight of probability to his views of men and measures.



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# SKETCH

OF THE

LIFE AND CHARACTER OF THE AUTHOR.

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WILLIAM PLUMER, the oldest child of William and Sally Plumer, was born in Epping, N. H., on the 9th of February, 1789. His childhood was marked by the love of books, and the self-formed habit of study, and equally so, by modesty, quietness, and docility. At the age of thirteen, he entered Phillips Exeter Academy, to be prepared for college. While here, he gained, at the outset, the reputation of being a great reader, but a poor scholar,—was regarded by his companions as their infallible authority in matters of history and literature, while, for the first two years, he permitted them to take precedence of him on the class roll. During his last year at Exeter, he applied himself to study with great diligence, so that, at the commencement of 1805, he was among the foremost of the successful candidates for admission to Harvard College. While in college, he devoted a large portion of his time to general reading, yet without detriment to his academic rank. He acquired, during his collegiate life, a good degree of facility and grace as a writer, and maintained his place among the highest scholars of his class.

Immediately after taking his degree, he commenced the study of law with his father. But, while by no means unmindful of the demands of his chosen profession, he comprehended, in his preparation for it, a much wider scope than

is usually assigned to it, speaking in his journal of "an intimate acquaintance with History, Belles-Lettres, Moral Philosophy and Politics," as "necessary to the education of a lawyer." In all these departments he was early a diligent student, and it is believed that few of his co-evals became more thoroughly conversant with ancient or modern history, or with the classics of English literature in every age.

In 1812, he returned to Cambridge, to take his second degree, on which occasion he delivered the English Oration. He had formed very strong college friendships ; but the most intimate of them hardly survived this period, except in his regretful memory, an unusual mortality having more than decimated his class within the first five years. In the autumn of 1812, he made his first public appearance as a political orator, at a Republican Convention in Kingston. During this same autumn, he was admitted to the bar. The greater part of the four following years he spent at Epping, engaged in study, occasionally writing for the public journals, and sometimes appearing, with credit to himself and advantage to his cause, at political meetings. He projected a History of the Foreign Intercourse of the United States, but abandoned the plan, on the appearance, in Boston, of a prospectus for a similar work, from another hand. On the close of the war with Great Britain, he commenced writing an elaborate History of the War, and had made considerable progress in it, when the crowded occupations of public life suspended a work which he never afterwards resumed.

In the summer of 1816, he received from the United States Government an appointment as Commissioner of Loans for New Hampshire, and removed to Portsmouth to enter upon his new duties. He held this office seventeen months, when it was abolished, and he returned to Epping.

In 1818, he was elected to represent his native town in the Legislature. He at once became a leading member, bore a prominent part in the principal debates, and took the initiative

in several important measures. At that session he was nominated as a Representative to Congress, was elected in the following spring, and re-elected for the two subsequent terms, thus serving in three successive Congresses.

During his first session at Washington, the question of the admission of Missouri as a slave state was agitated. He stood firm on the side of freedom ; and among the speeches delivered at the various stages of the debate, it is doubted whether any surpasses one of his, which we have now before us, in political wisdom, in legislative dignity, and in explicitness as to the principles to which, had the North remained true, the agitation of the last few years would have been happily superseded, and the area of freedom would have exchanged proportions with that of slavery. In the seventeenth Congress, he served as Chairman of the Committee on the Judiciary. In 1824, he was chosen United States Senator, on the part of the New Hampshire Senate ; but in the House of Representatives there was no choice, and in the next Legislature, the two Houses united on another candidate. While in Congress, he formed an intimacy, which lasted through their respective lives, with John Quincy Adams and Daniel Webster. With the inauguration of Mr. Adams, his life at Washington terminated.

On the 13th of September, 1820, he was married to Miss Margaret F. Mead, and, shortly afterward, built a house, near his father's, and in the midst of his kindred, which was thenceforward his home.

In 1827 and 1828, he was a member of the New Hampshire Senate, but declined being a candidate for a third term. In 1827, he unexpectedly received from President Adams a commission as District Attorney for New Hampshire. But he had never been very actively engaged in the practice of his profession, had, for several years, been entirely withdrawn from it, and had no disposition to resume it. He was, however, greatly gratified by the appointment, and especially

by its having been made without solicitation or suggestion from any one, as Mr. Adams wrote to him, "a personal knowledge of your qualifications superseding the necessity for any recommendation." Little as he had appeared in the courts, the general opinion of his friends as to the thoroughness of his professional attainments may be inferred from his having been repeatedly solicited to suffer himself to be placed upon the bench of the Supreme Court of his native State.

On leaving the Senate, he considered himself as having retired from public life. He, indeed, not infrequently took part in political meetings, sustained various important trusts, and was always ready to devote his time and talents to the general good. But his life was, for the most part, that of literary industry and enjoyment. His home was pre-eminently happy; his hospitality drew many friends around him; and his domestic felicity, so firmly established that inevitable affliction alone could disturb it, was clouded only by the death of an infant child. He might, perhaps, have sought a residence, where he would have had easy access to other libraries than his own and his father's, and have enjoyed more of the society of literary men; but, during his father's lifetime, filial piety and community of tastes and pursuits determined his continued residence near the paternal mansion, and, when these motives existed no longer, he had survived the period when change is easily made.

He had early developed a poetical vein, and, while in college, had acquired considerable reputation by writing several of his themes in verse. In his domestic retirement, he rekindled the youthful flame, and became the author of not a few poems, some of which were printed,—we can hardly say published,—while many more remain with his family, their precious memorial of his genius and culture. Among these poems were three collections of Sonnets, under the common title of "Personal Sketches," and the specific heads of "Youth," "Manhood," and "Age." Of the first two, he

printed, chiefly for distribution among his friends, small editions, in 1841 and 1843 respectively. The sonnets in these volumes are admirable specimens of euphonious versification, chaste imagery, and affluent thought. Calm, quiet, contemplative, introspective, they are rich and beautiful in themselves, and meet the sympathy of those of kindred mood with the author ; but there is in them little of the stirring, none of the spasmodic element, which characterizes so much of the literature of the present generation. In 1845, he published "*Lyrical Sacra ; or, War-Songs and Ballads from the Old Testament*,"—a felicitous versification of those portions of the poetry of the Bible which fall under the description of the title. In 1847, he published a Pastoral, founded on the biblical story of Ruth. In this, he displays a deep insight into the history and spirit of the times, and a highly creative imagination in grouping subsidiary ideas and incidents around the prominent personages and leading events of the scripture narrative. If the poem has any fault, it is in its subject. It was, perhaps, hardly safe to choose for artistical re-creation a story in itself so fully fraught with all the elements of poetry ; and the most smoothly flowing anapaests of English verse can hardly replace, with lovers of the Bible, the almost rhythmical prose of the Book of Ruth in our common version.

His quiet home-life was broken in upon, not infrequently, by the claims of various public occasions, and the attractions of travel. He represented New Hampshire at the Centennial Celebration at Cambridge. He officiated as Chairman of the Committee for the Abbott Festival, at Exeter. He responded, in behalf of the invited guests, to Mr. Webster's greeting, at the first Festival of the Sons of New Hampshire. In 1850, after an absence of a quarter of a century, he revisited Washington, where he was received with great cordiality by such of his early associates as remained in Congress,



and was met with many gratifying tokens of high regard by those who then first made his acquaintance.

For several of the last years of his life, he was President of the Trustees of the New Hampshire Insane Asylum, and devoted a large amount of time and labor to that philanthropic service. Indeed, duties of this description never found him backward. He was eminently a humane man, and entered with profound interest into whatever enterprise was adapted to relieve the suffering and raise the depressed. In this spirit, he took an active, though not a partisan, interest in the great reforms of the age. From his determined opposition to the Missouri Compromise, thenceonward, he was always ready, with tongue and pen, to deprecate the extension of slavery, and to advocate such elections and measures as augured well for the cause of freedom.

In the autumn of 1850, he took his seat as a member of the Convention for revising the Constitution of New Hampshire, and it is believed that no member exerted a stronger influence than he, or was regarded as his superior in political experience and wisdom, in conversance with constitutional history and precedent, or in weight of argument as a debater. Probably the leading speech of the session was one by him against the proposal to make the Judiciary dependent on the popular suffrage.

During the winter of 1850—51, he was afflicted with a local disease, at first supposed to be a stubborn ague, but which was subsequently found to be an affection of the membranous covering of the jaw-bone. From this he suffered for many months, and his friend and classmate, Dr. Hayward, feared a fatal termination. His recovery, however, seemed entire, though undoubtedly his constitution was impaired, so as to render him the easier prey to the illness which terminated his life. The leisure of his latter years was principally devoted to the preparation of the volume now given to the public.

His last illness—an inflammation of the bowels—seized him on the night of September 8th, 1854. He was at once greatly enfeebled, but was not regarded as in danger till the 18th. During the greater part of that day, he was speechless and unconscious, and sank in the afternoon, in painless dissolution.

His was a character which most impressed those who knew him best. Modest and unambitious, he shrank from notoriety, and was seen in public only when sought out, and drawn from his retirement. The writer, who long enjoyed his intimacy, has seldom been conversant with a mind so rich and full, so accurate in fact, so sound in opinion, so weighty in inference, so suggestive and instructive to one of kindred tastes and congenial pursuits.

His moral tastes and sensibilities were eminently true, pure, and delicate. From youth to age, his life was governed by the severest principle, and might have challenged the closest scrutiny. His friendships were strong, and he cherished no enmities. None knew him but to respect him ; none shared his intimacy without holding him in the most affectionate regard. As a neighbor and a citizen, he was a peace-maker, a steadfast friend of improvement and progress, a counsellor and helper in every good work, a consistent and judicious advocate of whatever could make those around him happier and better.

We have never known a more perfect embodiment than in him, of all the graces and amenities of domestic life. Signally blessed in his domestic relations, he found his chief joy in his family, and in the exercise of the most ample and cordial hospitality, equally to those whose intellectual communion gave refreshment and stimulus to his own mind, and to those who derived from his kindness solace in their desolation, or relief in their straitnesses. Disinterested and self-forgetting in his loving offices for those around him, he unconsciously made himself the cynosure of their assiduous and devoted attentions,—the light and joy of the favored

circle, who felt that the larger half of life was taken from them, when he was removed.

He was a Christian, in belief, practice, and spirit. He loved the Scriptures, and was not only a daily reader, but a diligent and critical student, of the Divine Word. His theological scholarship was extensive and accurate, and it was a profound heart-interest in religious truth, that preceded and guided him, as he sought its sources, and traced out its fountains. His life was closely conformed to the precepts of the Gospel, and he lost no opportunity of expressing his profound reverence for the doctrines of Christianity, and the character of its Founder. His trust in Providence was entire and implicit, and combined with his natural temperament, to impart a peculiar serenity to his speech, and his whole manner of life. He had clear and happy views of death, and of the life beyond death ; and, though the last change stole upon him without warning, we could not, on his account, regret its suddenness. His work was done, and well done. His departure was as tranquil as had been the even current of his pilgrimage. The shadow fell, indeed, on what seemed the meridian of his industry and usefulness ; but, hardly resting upon his consciousness, we doubt not that it was merged in the dawning of a brighter day.

# LIFE OF WILLIAM PLUMER.

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## CHAPTER I.

### THE YOUTH.

WILLIAM PLUMER was the fifth in descent from Francis Plumer, who took the freeman's oath at Boston, May 14, 1634. Francis came to Massachusetts with a company of emigrants from the west of England, and settled, in 1635, at Newbury, of which town he was one of the original grantees. He is the common ancestor of all the Plumers in this country, whose descent I have been able to trace; and was himself descended from the ancient family of the Plumers in England, which, from the period of the Barons' wars, has always maintained a respectable standing among the gentry of that country. The Plumers of Georgia, the two Carolinas, and Maryland, are of the same stock. George Plumer and Arnold Plumer, late members of Congress from Pennsylvania, and Franklin Plumer, late member from

Mississippi, are descendants of Francis Plumer, as are also the Plumers of New Hampshire, Maine, and the other New England States. The land in Newbury, where Francis originally settled, and on which a house, said to have been built by him, was, a few years since, standing, and perhaps still is, has remained in the family since its first acquisition ; and is now held, in the eighth generation, by a direct descendant of the original proprietor. Such continued possession of the same property is not uncommon in Europe ; but, in this country of emigrant habits and restless adventure, the Plumers of Newbury form a rare exception to that general love of change, which has filled every State in the Union with New England men, and has left at home few of the original possessions of the Pilgrims in the hands of their immediate posterity. Except that one of the family now and then represented his town in the Legislature, they neither sought nor received any public distinctions, and were chiefly known among their neighbors as honest men, good citizens, and industrious cultivators of the soil.

Of this quiet and unambitious family, the fourth in descent from Francis, was Samuel Plumer, who was born, June 14, 1722. He was married, April 8, 1755, to Mary Dole, a descendant of one of the families which originally settled, and still cluster in patriarchal simplicity, round the Green, on the Parker river, at Newbury Old Town.

Samuel and Mary were the parents of six children—three sons and three daughters—of whom, William, the subject of this memoir, born June 25, 1759, was the oldest. His father had removed on his marriage to what is now Newburyport, and entered largely, for the time and place in which he lived, into the business of shoe-making. He was successful in business, and happy in his family and his social relations. The shoe-manufacturers of that day sent the products of their labor to the southern colonies, and received in return corn and tobacco from Virginia and North Carolina. The disposal of these goods gave them something of the character of traders, especially in their transactions with their own journeymen.

My grandfather having acquired what, with his moderate desires, he considered a decent competency, purchased a farm in Epping, New Hampshire, and, removing thither in the autumn of 1768, devoted himself thenceforth to agricultural pursuits. Of the personal appearance of my grandfather at this time I received, some fifty years later, from an old man, who saw him at Newburyport, a description, which may be worth repeating here, as exhibiting, in the dress at least, a contrast sufficiently striking with anything which is now to be seen in the same, or indeed in any other place. My informant met him one Sunday morning, going with his family to church. He was dressed in a large full-bottomed wig, curled and pow-

dered, and surmounted by a three-cornered hat, a scarlet broadcloth coat, an embroidered vest, buckskin breeches, silk stockings and velvet shoes, with large silver shoe and knee buckles, and an ivory-headed cane. But what most struck my informant, who was a stranger to him, was the tall and commanding figure, the athletic strength, and manly beauty of the person whom he met, the noblest looking man, as he said, whom he had ever seen. That Samuel Plumer was a man of great bodily strength and activity, many stories, still current, sufficiently testify. Of his fine personal appearance, even in old age, I retain myself a distinct recollection. In his younger days, and even at a later period, he excelled in all manly exercises, and neither in Newburyport, nor in Epping, did he find any superior, and seldom an equal, in the sports then common at raisings, trainings and Thanksgivings, of pitching quoits, shooting, lifting at the bar, running, leaping, and wrestling. At Epping, his chief competitor in these hardy sports, was Henry Dearborn, afterwards a member of Congress from Maine, Secretary of War under Jefferson, and Commander-in-Chief on the northern frontier in the war of 1812. Dearborn possessed uncommon strength and activity, and was, besides, a much younger man; but, with even these advantages, he was seldom successful against the practised skill and unimpaired strength of his older, but not less robust and sinewy antagonist. In

their last wrestling match, on the occasion of raising a new meeting-house in Epping, Dearborn brought his opponent once upon his knee, but was himself twice thrown, first forward on his side, and, at the last trial, fairly on his back, leaving his rival victorious in the ring, with no one disposed to dispute with him the honors of victory. It was in these rustic, but heroic games, that the youth of New England acquired the strength, the dexterity, and the courage, which swept before their onset the disciplined valor of the British soldiery, and gave independence to their country. This great bodily strength of my grandfather did not descend to any of his sons, unless, indeed, some portion of it might have come to them in the form of an unusual strength and tenacity of life; the average age of the three brothers being about eighty-six years.

His oldest son possessed, with his length of days, a power of application and of endurance, which enabled him, though often in feeble health, and never strong, to perform a greater amount of labor, manual and intellectual, continued for many years in succession, through more hours every day, till he was past his eighty-fifth year, than any other person I ever knew. Young as he was when the removal to Epping made him thenceforth an inhabitant of New Hampshire, he ever after retained a grateful recollection of the place of his birth, and a strong attachment to his native state. Of events which



occurred before he left Newburyport, little is now known concerning his early life, which is worth relating here. A few circumstances may, however, be mentioned, as either characteristic of the times, or of the individual.

He was so feeble an infant, that there seemed, at first, little hope of his reaching manhood; but he gained strength with advancing years, and was soon distinguished as a lively, quick-witted boy, full of sprightliness and activity, observant of passing events, and ready alike for study and for play. His public instructor, noted in the history of Newburyport for his long and faithful service in his avocation, was Stephen Sewall, an old man, whom he described as precise and formal in his manners, but of great kindness of heart, and wholly devoted to his pupils. He learned of Sewall to read, write, and spell, but was not taught grammar either then, or at any subsequent period. Sewall advised his father to give him a collegiate education. This advice was earnestly enforced by the clergyman of the parish, who said that the boy would pay well for any expense in that line which might be bestowed upon him. But his father, who, though a man of strong sense, was little aware of the value of a good education, said, that besides the expense, which was greater than he could bestow on all his boys, such a course would unfit his son for the agricultural pursuits to which, in his own mind, he

had, even then, already devoted him. Another answer which he sometimes gave, when pressed on the subject, was, that William had wit enough to find his way in the world, without the help of college guides, not reflecting that the stronger his native powers, the more worthy they were of being improved by the best culture they could receive. It is the more to be regretted that this advice was not followed, as we may be sure that he would have improved to the utmost whatever advantages the college might have afforded him.

These, indeed, at the time when he would have been there, were not great. *Inter arma silent musæ.* The college buildings were, about the time when the youth would have been prepared to seek their shelter, turned into barracks for the soldiers of Washington, then encamped at Cambridge, for the siege of Boston.

The clergyman whose advice was thus rejected was Jonathan Parsons, a divine distinguished for classical attainments, theological learning, and great power as a preacher. My father used to tell of a discourse which he delivered against one Smith, a Baptist preacher, who came from Haverhill, to make proselytes among Parsons's parishioners. The text was, "I have created the *Smith* that bloweth the coals." The doctrine deduced was, that "all things, utterly worthless as many of them are, proceeded from the Lord, even," added he, raising his voice and pointing to his

opponent, who was present, "the Smith who bloweth the coals of strife, and heresy, and all ungodliness among us." Smith replied the next Sunday with some text equally quaint, and, no doubt, equally to the purpose, though I do not now remember what it was. These turns of Puritanical wit were then common in the pulpit, and much admired by the audience. They were scarcely less common among lawyers at the bar, and with judges on the bench. Mr. Plumer, at a later period, excelled in them, and was never at a loss for apt quotations from the Scriptures.

Another incident of this period carried with it a lesson of high moral import. A boy of his acquaintance persuaded him to buy a bird of him, and told him, as he was without money, that there would be no harm in taking the pistareen, which was the price, from his father's desk, as the bird was worth much more than the money. His desire to possess so tempting an object gave such an appearance of truth to this juvenile sophistry, that he went to the desk, took the money, and was soon on his way home with the bird. The joy which this acquisition gave him was however turned, as he approached the house, into doubt and apprehension ; and, carrying the bird to his mother, he told her the whole story, and asked what he should do. She took him at once to his father, who explained to him, in no gentle terms, the guilt which he had incurred, and the punishment, as well

as the disgrace, which such conduct must bring upon him. He then ordered him to carry back the bird to the boy who had been his tempter. This he did though with some reluctance, mortified by the ridicule he knew he should incur, and shedding tears at the loss of his beautiful bird. When he returned and reported that, though he had given up the bird, he could not get back the money, his father said, "So much the better, William, so much the better; this will teach you that dishonesty never prospers." "I was only six years old," said Mr. Plumer, in relating this incident, "when this took place, but it fixed too deeply in my mind the distinction between mine and thine, the *meum* and *tuum* of the law, to make any new light necessary for me from Blackstone or Paley, from lawyer or divine, on that subject; and if in after life, no man ever charged me with dishonesty in any money transaction, it was owing not a little to this early lesson on the rights of property, which my father impressed upon me so effectually in this matter of the bird and the pistareen."

One more incident, and we shall be prepared to accompany the boy to the quiet seclusion of his country life in Epping. Among things which in after life he remembered to have seen before leaving Newburyport, was the passage of John Wentworth, the last royal governor of New Hampshire, through that place, on his way to Portsmouth. This was in June,

1767. Wentworth had landed at Charleston, South Carolina, and had made the tour of the colonies, as Surveyor General of the King's woods in America. When he reached Newburyport, the whole town thronged his way, as, accompanied by the chief inhabitants, he rode on horseback through the main street, with his hat in his hand, bowing gracefully to the salutations of a loyal and admiring people. The sight was one which a boy of eight years old was not likely to miss, or, when once seen, to forget. Yet the child, who, with eager curiosity, climbed the fence that he might have a better view of the great man as he passed, could hardly have foreseen that the Province of New Hampshire, of which he then perhaps heard for the first time, would within ten years become an independent State ; and that, in a few years more, he would himself be chosen to this same office of Governor of New Hampshire, and be conducted to its capitol with more parade, and a larger escort than now attended the honored representative of the majesty of England.

The characters of men depend so much upon the circumstances in which they are placed, and the state of society around them, that without some knowledge of these we cannot do justice to their motives, or judge fairly of their conduct. Among the essays which my father proposed to write, but for which he did not find time, was one on the changes which had taken

place in the world within the period of his recollection. "Where," says Young, "is the world in which a man was born?" The proposed essay, if written, would have exhibited the world, into which the subject of this memoir was born, in strong contrast with that very different world in which he closed his days. It would lead us too far from our present theme to attempt any such exhibition. A few facts only will be here noticed, which may serve to remind the reader of some of the most important changes which happened within the period of Mr. Plumer's life, and of the influences which, whether for good or evil, bore upon him from the times, and the society in which he lived. The ninety years of his life were perhaps the most eventful period in the history of mankind; and though his agency in these great transactions may, on a large scale, be said to be little or nothing, the influence on him was not the less real of events which transformed the whole aspect of society. It was his fortune to live in an age of unprecedented change and revolution; of hope, expectation, and alarm; of progress, demolition, and reconstruction; in which the elements of society were convulsed, and the foundations of long established opinions shaken, or overthrown. The strongest minds did not escape the agitation of the storm; the weak were swept helplessly before it. It is enough to say that American Independence, and the French Revolution, the empire

of Napoleon, and the emancipation of Spanish America, occurred within this period.

Epping, then, as now, a small country town, was originally a part of Exeter, from which it was separated in 1741. With one thousand four hundred and ten inhabitants, it was the fifth town in population in the province. The inhabitants were devoted almost exclusively to agriculture and the lumber business. They sent their lumber either to Exeter or New Market, and thence through Portsmouth to the West Indies, or to England ; whence they received in return the few foreign commodities which their simple habits required, and the little money necessary to pay their taxes. On one occasion, the collector gave notice that he would receive the taxes in lumber, if delivered by a given day in March. On the day appointed, the lumber came in from all parts of the town ; and the collector started with it for Exeter, with forty teams, and more than a hundred yoke of oxen, with drums beating, colors flying, and with a small cask of West India rum mounted conspicuously on the foremost load. Cornet Perkins and Ensign Rundlett, who, as military men, were more honored in their day than major-generals of militia are in ours, headed the procession, and, after astonishing the good people of the parent town with this rustic display, brought back their whole company, as Deacon Wheeler said, in very decent order. Some of the

men, indeed, found it convenient to ride on their sleds, holding on manfully, but laboriously, by the chains, instead of walking briskly by the side of their oxen, as in the morning. But for this, the labors of the day might have seemed some excuse, if the cask, now empty and dangling in the chains, had not suggested a more obvious reason. This excursion was not, however, an ordinary occurrence; and, in general, the prudence, sobriety, and frugality of this hardy and industrious people were worthy of all commendation.

Of many interesting topics, which now occupy the village gossip, they knew little; of some, nothing. Politics seldom disturbed their quiet. They had, indeed, occasionally to choose a member of the Assembly; and this was not always very easily done, as it was sometimes hard to persuade one of the two or three who were alone thought fit for the place to accept the trust.

With religious discussions, growing out of the existence of different sects in the town, they had, thus far, been little troubled. There were a few Quakers on the south-western border of the town, and one of them had been once sent to jail for refusing to pay the parish tax, but, with this slight exception, the whole people attended the Congregational Church, whose minister was supported by a town tax.

The clergyman, who thus united the town under



his charge, was the Rev. Josiah Stearns, a graduate of Harvard College, a worthy pastor, and, in general, very acceptable as a preacher. His orthodoxy was, however, so strict as sometimes to give offence, even in those days of ready acquiescence, and of deferential respect for the clergy; nor did it always show itself, as some of his parishioners thought, on the most appropriate occasions. At the funerals of infants, for instance, he took especial care to remind the parents that the penalty of Adam's sin rested as heavily on children as on adults, and that there were thousands of infants in hell who had died so young that they could not "discern their right hand from their left." This expression, which my father heard him repeatedly use, was characteristic, not so much of the man as of the times.

The inhabitants of Epping generally were on a footing of great equality as to property; none rich, and none very poor. Nearly every head of a family was a land owner. Money was scarce, but provisions were cheap, and labor always in demand.

It was to this quiet country town that Samuel Plumer retired with his family in the autumn of 1768, to spend the remainder of his life in those agricultural pursuits to which his youth had been devoted, and to which his thoughts had always fondly turned. His eldest son was, at this time, in his tenth year; and, as the farm was to be the scene of his exertions,

he was early trained to its labors. Of this period of his life, little is now known which it would be of interest to relate. Boys of his age, however, learn much from those around them, and receive impressions which influence largely and lastingly their future characters and conduct.

His situation was in many respects favorable. Few temptations to idleness or immorality were thrown in his way, and the parental influences were all on the side of virtue, of regular industry, steady habits, and quiet and orderly demeanor. His mother was a woman of great good sense, of a serene and cheerful disposition, and of the tenderest maternal solicitude. His father, who was regular in his habits, assiduous in business, and strict in all religious observances, was prompt to notice any impropriety, and checked at once the slightest deviation from the right in his children. All the reasonable wants of his son were anticipated by provident forethought, while his wayward humors and his idle griefs, his childish sorrows and his boyish disappointments (for even he sometimes tasted "that root of bitterness wherewith the whole fruitage of our life is mingled and tempered,") were soothed and relieved, and often changed into pleasure, as dark clouds grow bright as they approach the moon, by the cheerful disposition, the earnest good will, and unwearied assiduity; of a pious and loving mother. This union of authority with indulgence—of

the father's regularity with the mother's tenderness—early formed him to habits of industry and self-control on the one hand, and on the other, to kindness, liberality, and thoughtfulness for the wants and the wishes of others. In the rough and gregarious sports of youth he took little part; yet his temper was social, and with a chosen few he was intimate and familiar. With little variety of incident, or change of pursuit, passed the first few years of his life in Epping. Labor in the open field, regular but not excessive, gave strength to his bodily frame, while the simple diet of his father's table left his mind clear and unclouded for his hours of study, and free and cheerful in his moments of relaxation.

Yet even in this happy seclusion, and at this early period, he felt, with daily increasing force, one want not easily supplied,—that thirst for knowledge, in his situation unattainable, and in none ever perfectly obtained, which is characteristic of all active and inquisitive minds, and without which little real progress is ever made. His eager desire to understand whatever fell under his notice, or occurred to his thoughts, found no adequate gratification in the knowledge or the capacity of those around him. He was never tired of putting questions, which they could not answer. Questions indeed there are without number, questions as to man's origin and his destiny, his rights and his duties, which youth in its ignorance

can ask, but which even age in its wisdom cannot answer. With some of these, involving high considerations of a metaphysical, moral, and religious nature, he early puzzled himself and embarrassed others. Even the minister, looked up to with awe as an oracle, could not always solve the doubts of the young inquirer, but sought to repress by authority, rather than to satisfy by facts and reasonings his pertinacious inquisitiveness. His father had few books of much value, except the Bible and the *Morals of Epictetus*. The Bible, read through and through in the daily service, suggested thoughts that often brought him home from the fields with a string of doubts and queries, which there was no commentator at hand to explain. The study of Epictetus, early and assiduously pursued, while he had as yet few other books to read, gave, by its lessons of severe virtue and stern endurance, something of a stoical turn, heathen rather than Christian, to his cast of thought, strictness of moral principles, and an energy and decision of character, which remained with him to the close of life.

It cannot be doubted that these two books, long and almost exclusively studied, entered largely into the formation of his moral character, and moulded strongly the peculiarities of his mind.

In the mean time, his instruction at the town school could have added little to the knowledge

which he brought with him from Newburyport. The ample list of arts and sciences which our town schools now profess to teach was unknown to the pedagogues of that day. Their *curriculum* embraced little more than the elements of reading, writing, and arithmetic, and in these their promise of instruction went far beyond any adequate performance.

The school was not kept more than ten or twelve weeks in the year, and, even then, the labors of the field, in seed time and harvest, were deemed of more value than what the schoolmaster could impart. "My father," he said to me many years after, "was a careful and indulgent parent, but he thought more of money than of knowledge." Yet under all these disadvantages, as the young student brought with him a ready apprehension, and a keen appetite for knowledge, his progress was gratifying to himself and pleasing to his friends. I conversed some years since with an old man who remembered him when they were scholars together in the schoolhouse, on Red Oak Hill. He represented my father as learning faster and more easily than any of his mates, and as going far before them in all that was taught there. He excelled in arithmetic, and would sometimes carry up to the master, who prided himself on his ciphering, a sum of his own stating. The teacher, after looking at it for a while, would say, "I am busy now, but will show you how it is done some other

time." As this other time never came, and the boy was himself able to do the sum, his companions were not long in coming to the conclusion that he knew more than the master.

The vanity, which this might have fostered in him, was checked by a deep sense of the little, after all, which he knew, and the much which was beyond his reach. All knowledge is comparative, and his was not great. His ciphering book, (a quarto of ninety-six pages,) is now before me. It begins with notation, and ends with the square root. It is written in a strong, plain hand, free from blots, and carefully finished in every part, but with no attempt at ornament and no unnecessary flourish. In these respects, it not inaptly represented the character of its author's mind, which was strong, clear, well defined, without ostentation or parade, useful in its aims, and practical in its results. His old school-mate said to me, on the occasion of this conversation: "Your father had the five talents of Scripture parable, and he was never charged with hiding one of them in a napkin."

He ceased going to school when he was in his seventeenth year, and was afterward his own instructor. Books had now become the great objects of his desire, and were, from that time, his never-failing companions. He soon exhausted the scanty supply of his neighbors and friends, and "whate'er the minister's old shelf supplied." Newspapers were then hardly

known in the circle where he moved. Pamphlets were scarce, and confined mostly to religious topics, the occasional sermon, the controversial tract, or the painful experience of some Christian professor; or, what was more attractive, the narrative of some Indian captivity, or wild sea adventure, or shipwreck, the capture of a Spanish galleon, or the death of Capt. Kidd. Bound volumes were still more rare; and of those which he could obtain few were of much value. He used, however, to say that no book is so poor but some good may be drawn from it—some fact for the memory, or some stimulant to thought. The meanest flower has a drop of honey, if the bee can but find it. He was indefatigable on the wing in search of such sweets. If he heard of a book, within many miles of his home, he could not rest till he had visited its privileged owner, and obtained the loan of it. He often went great distances on foot to borrow a book, of which he had heard, perhaps, only the title, from a person he had never seen.

It is easy to imagine the appearance on such occasions of the earnest and inquisitive youth, as, travel-soiled and weary with long walking, he presented himself to the stranger whom he visited, with an ingenuous countenance, and a manly address, stating the object of his call, and soliciting the favor which, though trifling in itself, was more dear to him than the richest gifts could have been. He often

obtained more than the single volume he sought ; and these loans, besides making him acquainted with their owners, gave him more real and lasting pleasure than the wealth or honors which afterwards came to reward his labors. Many were the long walks which he took for this purpose ; and he remembered with gratitude, to the close of life, these early benefactors. Such was his impatience that he could not always wait till his return to examine his treasures. Night more than once surprised him, while seated in some retired spot by the wayside, reading the book he had borrowed. This first hasty perusal was not, however, the last that he gave it. Books obtained with such difficulty were read with attention, and thoroughly digested, till, when he returned them, all that was worth noting in them had fixed itself in his memory. He retained to the close of life many facts and ideas which had been thus early and indelibly impressed on his mind. The scarcity of books led him involuntarily to practise on the old maxim of reading much, rather than many things. Want of variety and comprehensiveness was probably more than compensated, in this case, by the precision and accuracy which he thus attained. What he knew at all he knew well and thoroughly, so far as his means of information went. Suffering, as we do, in this age of repletion, from the multitude of books, loading every shelf and table, and pressing with importunate clamor



on our attention, it is not easy for us to understand the difficulties which he encountered, or sufficiently to admire that passionate love of learning, that noble avarice of books which made him deny himself any possession rather than miss those rare treasures of the mind which Milton has so nobly described, "as the precious life blood of a master spirit, embalmed and treasured up on purpose to a life beyond life." Few indeed were the works of master spirits to which he had at this time access, but he sought them far and wide, and used diligently whatever he could obtain. When he had read all within his reach, he went back again to reperuse and analyze what he had acquired, and to compare other men's thoughts with his own. As the advantages of a liberal education were denied him, it is not perhaps much to be regretted that he had access to so few books. A greater number might have led to more careless reading, and impaired perhaps the originality, if not the vigor of his powers. Hobbs said, somewhat arrogantly, that "if he had read as much as other men he should have known as little." As his other occupations left him little time for study, my father early formed the habit, which he preserved through life, of having a book always with him, and of reading at those leisure moments when others were waiting, impatiently perhaps, for their meals, or fretting on trivial occasions at inevitable delay, or engaged, at best, in idle conversation.

He never found these moments so short but he could open a book, and draw from it some fact to be remembered, or some thought for reflection. That this reading was not a mere passing of the time, a dreamy pleasure without improvement, as is often the case, appeared from the result of his studies, and the turn, eminently practical, of his mind. The habit thus early formed of reading when not otherwise employed continued with him through life. He took a book with him whenever he went from home ; and many were the volumes which he read on horseback. At a later period, when I used to ride with him in his chaise, he would give me the reins, and read aloud from some volume of history, biography, or morals, mingling with his reading remarks for my instruction.

## CHAPTER II.

### THE PREACHER AND THE SCEPTIC.

MORALS and religion, the duties of man to his Creator, to himself, and to his fellow-men, have relations so extensive with character and conduct, that no man's life can be considered complete which does not contain some account of him in reference to this subject. I have made, in the preceding chapter, some slight reference to religious opinions, as held in Mr. Plumer's younger days, in the circle of his more immediate acquaintance.

With his eager thirst for knowledge of all kinds, religion could not but attract a share of his attention, and on this, as on other subjects, he early displayed that boldness of thought, which, in the pursuit of knowledge, is regardless of consequences, and intent only on the acquisition of truth, as the reward of inquiry. His boyish curiosity, however, soon subsided into comparative indifference. But, in the spring of 1779, he experienced a new and more powerful religious emotion. His father had joined the Baptist Society in Epping, and it was here that his son now attended meeting. The pastor of this church,

Samuel Shepherd, united in his person the characters, then not uncommon, of physician and divine. He was the third Baptist preacher ever ordained in this state, and his church, established in the three towns of Epping, Brentwood, and Stratham, in each of which he had a meeting-house, and preached successively, is said to have been the largest ever collected under one pastor in New Hampshire. Through a wide region of country Dr. Shepherd was followed and admired by multitudes, and, everywhere, revivals and conversions attested the power of his preaching. Among others, Mr. Plumer, then in his twentieth year, attended these revival meetings, and became a convert to his doctrines. He was baptized by Shepherd, in May, 1779, in company with twenty others, by immersion in the river at Nottingham. From a convert he became first an exhorter, and then a preacher, though never regularly ordained. But this ministry was not destined to be of long continuance. In about a year and a half from his conversion, a change in his religious belief brought him back once more to the farm, and led ultimately to the adoption of the law as his profession. Of this part of his life, he has left among his papers an interesting account, the greater portion of which I copy here, as likely to be more satisfactory to the reader than any abstract of it which could be given.

“Early in the spring of 1779, there was in the vicinity what was called a reformation. Religious meetings were frequent ; the people were deeply and zealously engaged ; enthusiasm and superstition pervaded the assemblies, and spread from mind to mind like a contagious disease, or like a fire in a forest impelled by a strong wind. I attended one of these meetings with a disposition to consider it as under the influence of a supernatural spirit. On entering the house, the noise and confusion of the worshippers, their cries and contortions, seemed to me to be the mere ebullition of the passions. But such is the force of example, and the contagion of feeling, that, before I was well aware, I too shared in their emotions, was affected deeply by their fears, and alarmed and agitated beyond measure by the apprehension of that everlasting misery which the preacher set before us, in such lively colors, as the inevitable doom of every unconverted sinner. Though before conscious of no peculiar turpitude or depravity of nature, I now felt that my heart was the seat of all impurity, and that I deserved the punishment which seemed about to fall upon me.

“In this distress of mind, I could neither sleep, nor eat, and my strength utterly failed me. I remained in this state of anxiety and alarm for the space of ten days ; when, on a sudden, I was strongly impressed with the idea that God had forgiven my sins. This at once relieved my distress, and filled me with transports of joy. Though I had been baptized by sprinkling in infancy, I was now baptized by immersion in the river, making, at the same time, a public declaration of my creed and my experience ; and was soon after admitted a member of the Baptist church, in full communion.

I now devoted from four to eight hours a day to the study of the Bible, to prayer, and to the reading of religious books. In the frequent religious meetings which I attended, I generally took a part, either in prayer, or in an address or exhortation to the people.

“Early in the spring of 1780, I entered upon the work of the ministry, by becoming a preacher of the Baptist denomination—not by the advice of any man or church, but from a conviction that it was my duty. In the latter part of that season, and the first of the summer, I travelled through the counties of Rockingham, Hillsborough, Strafford and Grafton,—four out of the five counties then in the State. This tour occupied more than six weeks. There was scarcely a day but I delivered one, and often two sermons. My discourses, though not written, were studied and methodical, and delivered with ease and animation. I preached to others what I believed myself, and recommended religion to their consideration with zeal and pathos. My hearers were numerous, attentive, and serious ; and many of them, in consequence of my preaching, became professors of religion. After my return, I preached in Epping and the vicinity ; occasionally travelling into the seaports and the neighboring towns.

“In these discourses, I addressed myself chiefly to the understanding, and touched the passions so far only as was necessary to gain the hearers’ attention. I had larger audiences than any other preacher in the same places, a circumstance, doubtless, owing to my great youth, my earnest zeal, and the manifest sincerity of my convictions. I was not only sincere in my belief, but disinterested in my conduct ; for I can truly say that, during the whole time that I officiated in the min-

istry, I never received to the value of a single cent from any person except my food and lodging in the houses I visited, and that only when it was necessary. I set apart, and strictly devoted one day in every month to private fasting and prayer in my chamber. This was always to me a season of real enjoyment. These fasts, besides their religious uses, invigorated the mind, by relieving the stomach from the pressure of heavy meals, and gave me better health than I should otherwise have enjoyed. This practice of occasional fasting I have, indeed, continued through life, as a sure remedy against many bodily complaints. A fast of one or two days has often relieved me from diseases, which it might have taken a physician a month to cure. It was, however, for health of mind rather than of body, that I now resorted to these monthly fasts.

“ Not a doubt existed as yet, in my mind, as to the truth and the reality of the religion which I had thus adopted. My faith was strong, and my sincerity equal to my zeal, and both were great. The first scruples which I had on this subject occurred to me in September of this year. They did not proceed from books or conversation, but from my own thoughts and reflections. These doubts gave me much pain and disquietude. I made great efforts to banish them from my mind, and redoubled my application to prayer, and to reading and studying the Bible ; but all in vain. A spirit of inquiry had arisen which I could not stifle nor control. I sought in vain to reconcile the character of the Supreme Being, and the reason of man, with the principles of the religion which I had embraced. What greatly increased my embarrassment was, that there was no one to whom I could

impart my doubts with any hope that he could remove them. I found it a most painful task to question opinions which I considered so important, and which it might be even impious for me to reject. I had never read any book or pamphlet written against Christianity ; and, as I was resolved to preserve my religion, I procured and read such writings as I could find in defence of Christianity, and against Deism. But these arguments, though in some points satisfactory, added, on the whole, greatly to my doubts.

“ The more I examined my religious creed, the more it seemed to me opposed to the character of God, and to that faculty in man which distinguishes him from the inferior animals, and enables him to discover truth. No man, unless he has been in my situation, can realize the anxiety which I suffered. I knew there were men who preached religion for money ; and others who taught doctrines which they did not believe ; but that was not my case. I had been sincere in my belief, and was now equally sincere and unhappy in my doubts. It could not but wound my feelings to abandon a system which I had so warmly advocated. Yet this I could bear ; but my fears were alarmed lest I should plunge into error, and expose myself to everlasting destruction.

“ After being, some time, in this painful state of anxiety and suspense, I communicated a portion of my doubts to the Rev. John Allen, a Baptist preacher from England, who was then preaching in New Hampshire. He assured me that my doubts proceeded from the devil, said that he had often been afflicted with them himself, and that the only safe and effectual course was, by a resolute effort of the will, to banish them from the mind, repelling all assaults of the adversary by the



impenetrable shield of implicit faith. ‘The more you reason,’ said he, ‘the worse it will be with you. Resist the devil, and he will flee from thee.’ I endeavored, in all sincerity and good faith, to follow his example; but I could not long silence the voice of reason, nor close my eyes to self-evident propositions, or to what seemed necessary deductions from principles which I could not deny. Having at length satisfied myself that free inquiry could not be a crime, and that God would not punish an upright man for the errors into which he might fall in the search after truth, I resolved fully, freely and impartially to investigate the doctrines and the requirements of religion, as taught in the Bible, and to retain or reject the whole system, as it seemed to me to correspond with, or be opposed to, the reason and moral nature of man. The result of this inquiry, conducted with all the ability and the candor I possessed, terminated in deism.

“I continued to preach occasionally for four or five weeks, while these doubts and inquiries were rising in my mind. But my discourses were very different from those which I had formerly delivered. I now dwelt chiefly on the nature and perfections of the Deity, on his providence and his works, and on the use and importance of the moral and social virtues. This difference was soon perceived. The saints were alarmed. I was summoned before a church meeting, and admonished to abandon my errors. I met with the church several times on the subject, without their coming to any definite decision. I finally told them that, if they desired it, I would state publicly before the congregation my opinions, and the reasons on which they rested. To this Dr. Shepherd strongly objected. I then withdrew from further connection with them, and

returned once more to my labors on the farm with my father, where I was free to think for myself, and to practise what seemed to me to be the religion of reason and nature."

This remarkable narrative exhibits its author unfavorably indeed in one point of view, as alternately an enthusiast and an unbeliever,—yet in both characters as sincere, and earnest in his inquiries, ready, at whatever hazards, to follow truth, wherever she might lead, and anxious only for her instructions as the reward of his labors and his prayers. The treasure of religious truth, which, "with transports of joy," he had received for himself, he was eager to impart to others, not scantily, or imperfectly, or with any mercenary aim, but fully, freely, without fee or reward, as an offering of good will, and an oblation of duty to his fellow men. This idea of unpaid service was indeed a part of his enthusiasm. It sprang from a noble motive, and was worthy of the native generosity of his unselfish mind.

To the preceding account, given by himself, I am able to add, from other sources, various circumstances which throw further light on this part of his history. The tour of preaching, to which he refers in the above extracts, was undertaken with the concurrence, if not on the suggestion of Dr. Shepherd. Many parts of the country which he visited were then but recently settled; and among the rude, but intelligent

inhabitants of the frontier towns, in the log-cabins of the hardy settlers, he became acquainted with modes of life, and habits of thought and action with which he was before but little conversant. His long journeys, over bad roads, and through gloomy forests, were cheered by the deep sense of duty which had sent him forth on this errand of love; and the natural buoyancy of youth gave the color of hope, and often of exultant joy, to his thoughts, amidst the wild and magnificent mountain scenery through which, full of bright fancies, chastened and solemnized by deep religious feeling, he travelled alone, often pursuing his journey late into the evening before reaching the humble habitation, where, a stranger, yet welcome, he was to rest for the night, and preach on the morrow to the neighboring inhabitants. He visited in this way many portions of the State, and became extensively acquainted with the people. It was indeed to him a season of varied pleasure and severe exertion, of fatigue of body and labor of mind; yet cheered by the excitement of perpetual novelty, and dignified by the sense of duty performed and service rendered to others. He began to be aware too, on this tour, more than he had ever been before, that there was in him a power of mind not yet called forth,—a capacity to impart knowledge, and to exert influence over others, which, if it gave pleasure, imposed also responsibilities. This conscious-

ness of power is one of the first, and often of the severest trials of character, to which men of genius or talent are exposed. He determined that, whatever his capacity might be, it should be devoted to useful purposes, and exerted under the control of an abiding sense of moral duty.

In the course of this tour he met with many adventures, some of them sufficiently annoying, others amusing and even ludicrous. Of this latter character was the following. He had been preaching at Canaan, in Grafton county, when, at the close of his discourse, he was assailed by the clamors of some half a dozen of his hearers, who charged him with being a tory, upon the ground that in his sermon he had spoken of war as anti-Christian, and that in his prayer he had besought the Lord "to overturn and overturn, till He should come whose right it is to reign." "Now who," said these sagacious objectors, "can *reign* but a king? and what *overturn* can there be but of the present republican government, that the king of England, who claims a right to reign over us, may come in and exert his former authority here?" It did not occur to these worthy patriots that King Emanuel, and not King George, was in the thoughts of the preacher, and that his language, drawn from Scripture, had no reference to the vocabulary of tory politics. If this account seems incredible, its improbability will be perhaps somewhat lessened when I add

that the text was, "Little children, love one another," and that he found in it no warrant for the violence and injustice in which war generally originates. He succeeded, however, in convincing those who had at first expressed so much anger at his discourse, that there was really no treason in it, and they departed, amidst the laughter of the bystanders, with the uncomfortable reflection that their zeal had, on this occasion, outrun their discretion. The anecdote would not have been worth relating here, but for the revival, thirty-six years afterward, when he was a candidate for the office of Governor, of this Canaan story, with an entire perversion of the facts. The charge then made was, that he was a tory in the time of the revolution, and had been arrested as such on the occasion here referred to. There was in fact no arrest or attempt to arrest in the case, no toryism preached, and nothing unusual beyond the ludicrous mistake of a few of his hearers.

As a preacher, he was eminently successful wherever he went. He had a ready command of apt, lively and idiomatic language; and his use of words, if not elegant or scholar-like, was never low or vulgar. His voice was strong and clear, and its tones varied and harmonious. His reasoning was close and logical, fortified by Scripture quotations and analogies; and his appeals to the passions were strong, and often overpowering. His zeal and enthusiasm, genuine and

unaffected, animating his discourses with the fervor of his own convictions, carried his hearers easily and entirely with him. I have heard many old men speak with admiration of his performances on such occasions. With the usual partiality of the aged for the favorites of their youth, they all agreed in the declaration that they had never since seen or heard any one who exerted such power over his audience, as this young and eloquent Baptist preacher—a boy, as one of them said, with the tongue of an angel. Arthur Livermore, who heard him at Holderness, when he was fourteen years old, was so strongly impressed by him, that he told me, seventy-two years afterward, that he still remembered distinctly his look and manner, and the text and the tenor of his discourse. The turn of his mind was at all times less to declamation than to reasoning, which, as the main ingredient, gave strength and body to his discourses; yet then, as in after life, the warmth of his feelings added always a touch of passion to his coldest reasoning. The strength of his earnest and confiding faith filled, while it lasted, all his thoughts, and directed the whole energy of his mind to the inculcation of his religious opinions, and with them to the promotion, as he believed, of the highest happiness of his fellow-men. But this confiding faith and more than missionary zeal were not destined long to continue. A new train of thought and feeling had now arisen, which

mastered him as effectually as his former mood, with results more lasting, and, in some respects, less fortunate. Unwilling to hold his religion on trust, he felt it to be his duty to subject it to the test of free inquiry and rational conviction. It was, indeed, not to have been expected, still less was it desirable, that his strong and clear mind should have wedded itself permanently to the entire system of somewhat narrow theology which he had embraced. But the revulsion of thought and feeling was as far or farther on the other and the wrong side of a just balance of opinion and sentiment. Driven into the extreme of fanatical belief, under the excitement of fear and the contagion of example, he was carried, by a natural but unfortunate reaction, into the opposite extreme. The horrors of his first conviction, the nervous terrors, the everlasting burnings which opened before him, in this fever of the brain, which at times approached almost to insanity,—the whole series, in short, of his religious experiences and trials, became thus associated in his mind with the very name of religion, and produced in him a loathing and aversion, at times almost unconquerable, for the whole subject. Impos-  
ture, fanaticism, madness rose before him like a cloud, and hid from him the wisdom of God in the folly of man. It is easy for us to relate, in cold and measured terms, the process of these fiery religious changes. We may regard them with indifference, or dismiss

with pity or contempt. It was not so with him. In the most susceptible period of youth, the excitement of an enthusiastic religious feeling passed, with the force and rapidity of lightning, through the whole frame of his moral and intellectual nature, shaking the deepest foundations of thought and feeling—laying bare the intellect, which it roused, however, rather than subdued, and scathing, and for a time blighting, some of the purest and warmest affections of the heart. These recovered, indeed, from the first violence of the shock, but he could hardly be said ever to have renewed, in their pristine purity, the beauty, the simplicity, and the warmth of his early faith. Some impressions, burned into him by the fire of that first fever of the mind, were too deeply imprinted ever to be utterly effaced. The wound healed, but the scar remained; and some portion of beauty, if not of strength was lost in the operation. Yet, in this shipwreck of his early hopes, he held fast to his belief in a future state, and in the existence of a Supreme Being, wise, good and provident in all his dispensations. However doubtful on other points, on which we could have earnestly craved for him the full assurance of Christian faith, his understanding was never clouded by the delusion of those who hold that this universal frame is without an Intelligent Cause, or this maze of human nature without an Author, an object and a plan.



When his father first perceived his change on these subjects, he endeavored, by reasoning with him, to restore him to his former religious belief. But he was no match for his son, either in command of language, in quickness of thought, or force of reasoning; still less in zeal and ardor in debate. If not a better theologian, the young sceptic could at least put questions and state objections which no previous study or reflection had prepared the parent to obviate or remove. After many vain attempts to convince him of his errors, his father, who was a strong-minded, though uneducated man, finally said to him: "Well, William, we shall not convince each other, and may therefore as well be silent on this subject for the future. Let me only advise you to think more and talk less. You will thus come in time to answer your own objections, which will be better than if I could do it for you. Keep your love of truth, and your reverence for God, and you will come out right in the end." His mother, who, from his infancy, had devoted her first-born to the altar, and had seen with a mother's pride and gratification the crowds that followed him, and the great good which he seemed to be doing as a preacher, was proportionably disappointed at his relapse, and grieved and mortified at this sudden, and, to her, inexplicable eclipse of her fondest hopes and expectations. She reasoned, remonstrated, entreated, and wept over him.

He was moved indeed by her persuasions, and softened by her tears; but while no ill will was engendered and no love lost between them, they retained severally their own convictions.

He drew up, about this time or perhaps a little later—I do not know the exact date—a statement of his reasons for dissent from Christianity. I saw this paper many years after it was written. It was written with great force of reasoning, precision of force and clearness of style, abounding in acute remarks, and new and striking views of the subjects which he discussed. Yet at the same time he seems to have had some doubts as to the correctness of his summary of Christian doctrine, especially as he found nothing to which, rightly understood, he could object in the teachings of Jesus Christ, but much which he even then most gladly embraced.

His letters, during this period, are largely occupied with the discussion of questions in morals and theology, and show how strong a hold these subjects had taken on his mind. The character and attributes of God, his moral government, the nature of man, his rights and his duties, his freedom and consequent responsibility, are themes on which he frequently enlarged. He nowhere argues against the truth of Christianity itself, but often against the then current dogmas, as in his regard inconsistent with the character of God and the nature of man.

In June, 1782, he visited the Shakers, at Harvard, Massachusetts, where Ann Lee, the founder of the sect, then resided, and had much conversation with her. She was a woman of great shrewdness, ready wit, and aptness in her Scripture quotations. She claiming for the church the power to perform miracles, he told her he would become her disciple if she would perform one in his sight. "A wicked and adulterous generation," was her prompt reply, "seeketh a sign, but no sign shall be given them." Her followers spent the night he was there in dancing, singing and praying, whirling on one foot, leaping, shouting and clapping hands. One of the sisters took him out into the middle of the room, and began whirling and dancing round him with wild gestures, and wilder incantations, till at length, feeling himself growing dizzy, and half inclined to join in it, he seized the mad bacchante in his arms and was carried by her across the room.

In the first ardor of his change, he sought for a time to make converts to his new opinions. He was, as Mackintosh says of himself, "probably the boldest heretic in the county." But he soon relinquished the vain ambition of settling the opinions of others, while his own were in a state of so much uncertainty. His feelings were those of an inquirer, in doubt as to truth, and anxious, chiefly, for the solution of that doubt. When he spoke upon the subject, it was,

therefore, not with levity or sarcasm, but with the respect due to long-established opinions, and in the tone of inquiry, rather than of dogmatic defiance and disbelief.

I have dwelt at the greater length on this part of his early history, not only as interesting in itself, but because of its great influence on his subsequent life and character. It was with him the stage of doubt and uncertainty, of internal strife and self-conflict, through which most men who think for themselves are compelled to pass on their way to the repose of truth, if they ever reach it, in the assurance of settled opinion.

The leading views, thus early developed in his mind, were in later life essentially modified by wider reading, larger experience, and more mature reflection. His rejection of Calvinism was final and irreversible; and when, at a later period, he felt his heart opening to the influences of a milder faith, it was not so much through any formal process of abstract reasoning, or by the open and direct reversal of former conclusions, as through the sure instincts of the moral nature, the *vis medicatrix* of his maturer mind, the result of feeling ripening slowly into thought, and showing itself in deed rather than in word or profession, in life and character more than in creed or speculation,—a feeling of the heart passing gradually into a conviction of the understanding.

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The subject of this chapter will be resumed when we come, in the progress of our narrative, to that period of life in which inquiry, if not dismissed as fruitless, settles into belief, and opinion takes the form in which the mind is content finally to repose.

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## CHAPTER III.

### THE LAW STUDENT AND LEGISLATOR.

FROM his labors as a preacher, my father returned, at the close of 1780, with unabated ardor, to his old pursuit of knowledge, through the medium of books. But books were no longer the sole companions of his leisure. For the last eighteen months he had been almost constantly in contact, and occasionally in collision, with the world of living men; and, without losing his hold on the past, he came thenceforth to feel a more lively interest in the passing events of the day, and especially in the two great events of his time, the war of Independence, and the assumption of self-government which that war devolved upon the people of the United States.

His father had been a Whig while the object sought by the colonies was a redress of grievances. But when the question of Independence arose, he doubted both as to the policy and the practicability of the measure. He thought the people not yet ripe for self-government; or, if so, not strong enough to set at defiance the power of the British empire. "Let us wait," he said, "till we are stronger, before setting up

for ourselves. Remonstrate and petition, if you will, and adhere to your non-importation acts, but let there be no fighting in our day. Our sons, or, at the farthest, their sons, will be strong enough to have their own way in this matter; and their way will be a better one than any we can now take in that direction." In a word, he was a Whig of the John Dickinson, rather than of the John Adams school. These cautious counsels were, however, ill-suited to the ardent temper of the times; and, finding them of no avail, he submitted, with his usual prudence, to the popular decision, paid his war-taxes promptly, and discharged readily all the duties of a good citizen, though he had small hope of a successful issue to the war, and doubted, to the end, as to its policy. This did not prevent his signing, in 1776, among the first in Epping, together with two hundred and nine of his townsmen, "the solemn pledge, at the risk of their lives and fortunes, with arms, to oppose the hostile proceedings of the British fleets and armies against the United American Colonies." This was prior to the Declaration of Independence.

His son was of a more sanguine temperament, and, from the moment when the decline of his religious fervor left him leisure and inclination to consider the subject, "he became," as Charles H. Atherton said in a letter to me, "eminently a son and preacher of liberty; ready to suffer as a martyr in the cause, and

glorying in chains and imprisonment, if such should be his lot." To no such lot, however, was any New Hampshire man exposed. There was no considerable tory party here; and it is worthy of remark, that no hostile foot of civilized man, except, perhaps, in the first settlement of the State, some Frenchman in an Indian excursion from Canada, ever left its print on the soil of New Hampshire. Neither during the Revolution, nor in the war of 1812, was there any invasion of our territory. But, though not actually invaded, its inhabitants were within hearing of the sounds of war. My father showed me, many years after, the spot where he was hoeing corn, June 17th, 1776, when he heard the cannon of the British, at the battle of Bunker Hill. The distance was nearly fifty miles, on a straight line, yet the report was distinctly heard, and the cause readily divined. At the second discharge he left his work, and was among the first to join his townsmen at the meeting-house, where they assembled the same afternoon, in anxious consultation as to the probable issue of the day.

The next morning several of them marched for Boston, ignorant of the event, but ready to meet the danger, whatever it might be, which awaited their advance. My grandfather had assisted at the consultation, but refused leave to his son, then not quite sixteen, to join the marching party. The first clash



of arms at Lexington had filled him with fearful forebodings as to the probable result of this rash adventure, as he called it. His son, who had no such fears, was sanguine, perhaps, in proportion to his ignorance of the dangers and trials of the contest.

Political subjects engaged much of my father's attention at this time ; yet his regular occupation was not that of a student, or a politician, but of a farmer, working daily in the fields with his father and his brothers. These labors of the farm were, however, distasteful to him, not so much on their own account, as from the infirm state of his health, which required some less toilsome occupation. Work all day on the farm, and study continued far into the night, were too much for his slender frame ; and it became daily more apparent that one or the other must be, if not adandoned, at least greatly restricted.

An accident, which confined him for some weeks to the house, strengthened his desire for some other employment than that of manual labor. Of the three learned professions, medicine seemed to him, at this time, on the whole, to be preferred. He accordingly read several medical works, particularly those of the eminent Dutch physician, Boerhaave, from whom he derived much useful information on diet and regimen, which made him ever after, to a considerable extent, his own physician. He, however, soon abandoned this new pursuit, to which the accident of his wound

had perhaps first drawn his attention. The want of firm health and a robust constitution seemed to disqualify him for the fatigues and exposures which a country physician in an extensive practice must, night and day, and in all weathers, encounter; and he had not then confidence enough in his own powers to suppose that he could make his way in a city, against the better educated and powerfully connected members of the profession whom he would there have to meet. It may be suspected, too, that medicine had less attraction for a mind like his, than the more congenial pursuits of the law, which readily connects itself with public affairs, on which, by this time, his thoughts had become strongly fixed.

It was during the confinement above referred to, occasioned by a cut in the foot with an axe, that he produced, December, 1781, almost the only verses,—poetry it could hardly be called,—which he is known to have written. Almost every man finds himself, at some period of his life, a poet. The slender vein of his inspiration exhausted itself, on this occasion, in a poem on “Adversity and its Remedy.” The remedy here proposed is the usual one of patience under suffering; and its use, to which the poem is chiefly devoted, is declared to be to teach us compassion for the sufferings of others, and to rouse us to active exertions for their relief. This poem, which consists of about three hundred lines in blank verse, has the

merit of good sense and just feeling, but it is written without harmony of numbers, with little flow of fancy, and no strength of creative imagination. It is, so far as I know, his only poem, except a copy of verses, written in 1785, on the marriage of one of his friends, and of somewhat higher merit. But his judgment was too sound not readily to perceive the broad distinction between that nice sensibility to beauty which is necessary to the due appreciation of poetry, and that much rarer power of genius which is essential to its production. "I found," he says, "that nature had not intended me for a poet, and, though fond of reading poetry, I have never since attempted to write it."

But, though not a poet, he had by this time secured the command of a good prose style ; and he was not slow in turning it to account. His first publication in the newspapers, for which he afterwards wrote so much, was made about this time, February 18th, 1782, in the New Hampshire Gazette, printed in Portsmouth. It was on a branch of the great subject of religion, which had long occupied so largely his attention ; not, however, on the peculiarities of religious doctrine, but on the rights of conscience, and the protection of religious freedom.

The revolution had thrown the colonies, in the midst of their other dangers, upon the untried perils of self-government. Next to the demands of the

war, and, indeed, essential to its success, was the call on the civil wisdom of the country for local institutions, and new forms of government. The epoch of the revolution was the epoch, also, of written constitutions. The old governments were dissolved, and, in this sudden resolution of society into its first elements, when every man had his Utopia, or his Oceana, it is not strange that many crude notions should have been advanced. The people of New Hampshire were the first on the continent to adopt, on this occasion, a written constitution. It went into operation January 5th, 1776, before the Declaration of Independence; and its title bears proof, not to be mistaken, of the unsettled state of public feeling in the colonies at this time. It was entitled, "A form of government to continue during the present unhappy and unnatural contest with Great Britain." It imposed no restriction on the right of suffrage, and left the highest offices open to all. In 1779, a new constitution was formed, by a new convention, called for that purpose. The government, proposed by this instrument, was to consist of a Council and House of Representatives; and it was provided, that all the male inhabitants of the State, of lawful age, paying taxes, and *professing the Protestant religion*, shall be deemed lawful voters, in choosing councillors and representatives,—these latter to have the same qualifications as the voters, and also an estate of three

hundred pounds. This constitution was not adopted by the people. It is worthy of remark, that this religious test, then first proposed, was nearly contemporaneous with the alliance with France, which, however beneficial in other respects, was thought by many likely to favor the introduction of popery among us. The only real danger from the French alliance, to the religion of the country, was not from the Primate of Rome, but from the philosopher of Ferney, whose disciples in the French army were much more numerous and more zealous than the priests.

Another convention was called in 1781; and the constitution proposed by it, after various alterations and amendments, went finally into operation in 1784. One of its clauses declared that "Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience and reason." Yet, as a sort of compromise between the new spirit of religious freedom and the old intolerance, "the protection of the law" for this "unalienable right" was, by another article, confined to "Christians;" leaving all others out of the pale of such protection. By other clauses it was provided, that no person should hold the office of governor, councillor, senator, delegate, or member of Congress, unless he were of the "Protestant religion." It was in opposition to these intolerant restrictions, and in

defence of religious liberty, that this first essay was written. In it, the broad principle is laid down, that all men are equally entitled to the protection of the laws, who demean themselves peaceably, as good members of civil society, without reference to their religious opinions; and, that any man should be eligible to office who possesses the ability necessary for the discharge of its duties.

This communication, which went the full length, not of toleration merely, but of religious freedom, as now understood by its most liberal advocates, was far in advance of the times. "The printer," my father writes, "thinking the religion of the country required such a provision as I opposed, refused to publish what I had written, until I paid him three dollars for doing it." The articles of the Constitution, thus opposed, were adopted by the people, and still remain a part of that instrument. Such, however, was the justice of his strictures, and such the advance of public sentiment on this subject, that these provisions soon became practically obsolete. Men, not Protestants, nor even Christians, have been repeatedly chosen to offices which, under these provisions, they were not entitled to hold; and no attempt was ever made to exclude them on the ground of this religious disqualification. These and other amendments of the Constitution being still before the people, he wrote another address, which was published in 1783, and

brought the matter before the town of Epping, in September of that year, as chairman of a committee, in a written report made on the subject. The Constitution, as amended, did not go into operation till June 10th, 1784.

In March, 1783, he was chosen one of the selectmen of Epping, and his first public employment was in the humble, but not unimportant offices of his adopted town, whose affairs he managed with prudence and sagacity for many years, much to the satisfaction of his townsmen. "We will hold the candle, squire, and you must do the work," was the remark of one of his colleagues, indicating, not untruly, the relation in which they stood towards each other, and which, as he put forward no pretensions, they willingly acknowledged. As a sample of the moderate emoluments of those times, it may be mentioned, that he charged three shillings a day for his services, and half that sum for half a day; and this, too, when the pay was in town orders, at a discount of from twenty-five to fifty per cent. He never, however, regarded as lost or misapplied the time devoted to these services. They made him acquainted with the people, gave him business habits, and prepared him for more important duties.

This first official appointment raised in his mind, or rather brought to a practical decision in his own case, the question as to the lawfulness and propriety

of taking official or other oaths. He considered this appeal to the Deity, in the ordinary transactions of life, as unnecessary and improper. "Swear not at all," was his text, on this subject; and he adhered to it to the letter. No man ever heard him utter an oath, whether seriously before a magistrate, or profanely in conversation. Aside from the religious aspect of the subject, he was averse, on principle, to the use of intense or violent language. He employed few adjectives, and still fewer superlatives in his speech, and never added to the force of his thoughts by expletives or adjurations.

Anxious to engage in some pursuit which should task his mind more than his body, and feeling, no doubt, within him the stirrings of powers, which some public profession could alone develop or employ, he at length determined to commence the study of the law. After applying to Theophilus Bradbury, of Newburyport, who advised him to study law in the state where he intended to practice, and to John Pickering, of Portsmouth, who declined to take him, upon the ground, that, having already two students, he could not do justice to a third, he entered in May, 1784, the office of Joshua Atherton, of Amherst, who was at that time a lawyer of good standing at the bar, and was afterwards Attorney General of the state. In going to Amherst, he was accompanied on the journey by his brother Samuel. Mounting their



horses after dinner, they rode to Londonderry, where they passed the night at the house of their aunt Alexander, and the next morning left that place for Amherst. On reaching the Merrimac, at Thornton's ferry, the younger brother, leading one horse and riding the other, turned his face homeward, while the elder taking his bundle of clothes in his hand, leaped lightly into the boat, crossed the river, and made his way on foot to Amherst. He was kindly received by his new instructor, who had already two students with him; to one of whom, William Coleman, afterwards distinguished as the editor of the New York Evening Post, and a leading Federalist in that state, the young student became much attached, and kept up with him, for many years, a friendly correspondence. Coleman soon formed so high an opinion of his fellow-student's talents, that he wrote to him two years later: "Ere many years you will so fully gain the esteem of your state, as you have already of your town, as to give me the opportunity, when I shall hereafter write you, to subscribe myself 'Your Excellency's most obedient, etc.'" This rather remarkable prediction failed only by the death of Coleman, before the event happened which he had foreseen.

Atherton gave him Coke upon Littleton, as his first initiation into the mysteries of the law; and it is not strange that the ardor of the young aspirant was somewhat cooled by this selection of masters, so quaint,

austere and forbidding. After digging, for some three or four weeks, in the rugged soil of the feudal tenures, and beginning, as he thought, to get some glimpses of its hidden treasures, he was told by his instructor that he must suspend his legal studies, and commence with the Latin grammar. He must read Virgil and Cicero before he could understand Coke and Littleton. This was a new and, to him, most unwelcome labor. He, however, laid aside his law, and took up Lily's Latin grammar, probably the first grammar he had ever seen, certainly the first he had ever attempted to study. Its strange sounds and, to him, unmeaning rules, were even more distasteful than the quaint language, the remote analogies, and subtle distinctions, into which he had with difficulty entered, in those ancient sages of the law, on whose words he had been so recently intent. This new and repulsive study—what Lord Brougham calls “the tediousness, the intricacies, and the labors of grammar”—coming thus suddenly on the back of the other, was too much for his patience. Spelman, under less trying circumstances, tells us that he had felt his heart sink within him. Few students have escaped the same feelings at their first entrance on the study of the law. After a brief trial, he threw down the Latin grammar, and, bidding a farewell to Amherst, returned, not without some mortification and regret, to his father's house; where he found his friends delighted with the

idea of his renouncing the law, though he told them he should soon resume it under a different instructor.

The letter already quoted, of Charles H. Atherton, who was the son of the Attorney General, contains a description of the young student as he then appeared, which is interesting as compared with what is known of him in later life. "I have," he says, "a vivid impression of your father's appearance at that time. He wore a snuff-colored coat, was thin and spare, and had much the appearance of a Methodist preacher. I remember that he talked in regular-built sentences, like a book; and that young as I was, being only twelve or thirteen years old, I was very much struck with the precision and good sense of his conversation." On this description, I may remark, that the comparison of the "Methodist preacher" could not have been suggested at the time, as no such preachers were then to be seen in New Hampshire. It is not improbable, however, that he still retained something of the clerical aspect, which at an earlier period he must have worn. He had at this time seen little that could be called polite or polished society, and had mingled not at all in its lighter and gayer circles. Later in life, his manners were remarkable for their ease and simplicity; polished without being formal or affected; and, though lively and animated, never rude or boisterous. He had the graceful and deferential politeness, especially towards women, of

the old school, which won favor without losing self-respect. What is said of his talking "in regular-built sentences, like a book," was not true of his conversation at a later period, though it may have been when he was young, and had derived his knowledge more from books than from men. "The precision and good sense" with which young Atherton, was so "much struck," remained with him to the close of life. Yet he was precise in no other sense than that of being accurate in his use of language, and cautious in the statement of facts. There was no affectation of elegance or precision in his conversation, which, on the contrary, was distinguished for its variety and its freedom, never running into discussion, or speech-making, nor roughening into controversy and contradiction. He was frank and fearless, yet modest, in the avowal of his own opinions, and courteous, though explicit, in his treatment of others.

Though, in leaving Amherst, he had not intended to abandon the law, he found in the wishes and prejudices of his parents a barrier to its farther prosecution, which was not easily surmounted. Their aversion to the law, as a profession, strong at first, seemed to have increased with time. "After spending," he says, "more than a month with my parents, embarrassed and perplexed with doubts what course to pursue, my father, with a view to fix me to the cultivation of the soil, proposed to purchase for me a

house, and about sixty acres of land, called the Dearborn place, in the centre of the town. In July, the bargain was made, and on the 4th of September, I received a deed of it." This was the homestead, afterwards greatly enlarged, on which he went to live in the succeeding spring, boarding with his tenant, and superintending his operations, and where he continued to reside till his death. On it his remains now repose in the family cemetery.\*

The strong aversion of his parents to the law, and his somewhat advanced age, made him doubt whether some other employment might not, on the whole, be as well for him. In the meantime, his being drawn to serve on the jury brought the law again more forcibly to his mind. This service, as a juror, gave him an insight into the modes in which juries proceed, the view they take of witnesses, the motives which

\* One day, while in doubt on the subject of his future pursuits, he was overtaken, as he was walking from Epping Corner to his father's house, by Arthur Livermore, afterwards Chief Justice of the state. As they came opposite the Dearborn place, my father said, "What do you think of this situation?" Livermore replied, "It is a beautiful one." "Well," said his companion. "my father offers to buy it for me on condition that I will give up the law, and turn farmer; what would you do?" "Take it," said Livermore: "It will make you at once an independent man. If you still prefer the law, your father will not be so unreasonable as finally to withstand your wishes." "But I will not deceive him," said my father; "he shall have the farm back again if I study law." "In the meantime take the land," said Livermore laughing, as they parted. Livermore, in telling me this anecdote, more than sixty years afterwards, added, "This was the second time I had seen your father. The first was at Holderness, when he preached to a roomfull of earnest and excited hearers, and there are old men still alive, who have not forgotten the occasion any more than I have."

influence them, and the ease with which the majority yield to the opinions of one or two controlling minds on the panel, which was, he said, of great use to him in understanding their humors, and in managing cases before them, when, in after life, he had himself to address a jury.

In March, 1785, he was elected to represent his town in the legislature. His religious opinions had been urged against him in the canvass; and he was told that his seat would be contested on the ground that he was not "of the Protestant religion." But no such objection was made to him, and he retained his seat during the three sessions, which the legislature held that year. "In the first," he says, "I took little part in debate, but was attentive to every transaction; formed my opinions, and acted from my own judgment of things. At the second session, I entered my protest, singly and alone, against the bill for the recovery of small debts in an expeditious way and manner; principally on the ground that it was unconstitutional. The courts so pronounced it, and the succeeding legislature repealed the law." This protest, thus made, "singly and alone," is worthy of notice, as a specimen of that fearless discharge of duty according to his own sense of right, uninfluenced by numbers, and unmoved by threats or flattery, which distinguished him through life, and of which many examples will be found in this narrative.

He now returned once more to the subject of a profession, and resolved, late as it was in life, to commence the study of the law, "if," he says, "the consent of my parents could be obtained. After many applications and remonstrances, that consent," he adds, "was reluctantly yielded." This deference to parental authority, which had so long held him back, is worthy of remark, as showing the character of the man. He was now in his twenty-seventh year; a landholder; one of the fathers of the town, its representative in the legislature, and, as such, a lawgiver and ruler in the land; yet he was submissive to the parental yoke, even when it bore heavily on his dearest wishes and most cherished desires. His father, partaking largely in the prejudices of the times, hardly believed there could be an honest lawyer; and the simple piety of his mother still hoped to win back her favorite son to the service of the altar. These prejudices and this desire gave way, however, at length, to what they could not but perceive was the steady bent of his mind. The mother yielded first, and his father finally said, "Go then, William, if you must; it is a bad company you are going into—the lawyers; but I can trust you, even there. They may not," he added, "be so bad after all. There are dishonest farmers, and even dishonest Christians; why not then, honest lawyers?" In a word, having made up his mind that his son must be a lawyer, the old

gentleman began to look on the profession with some complacency, and lived long enough to feel proud of his son's success in it.

The only obstacle to his wishes being now removed, he entered, on his return from the autumnal session of the legislature, November 14th, 1785, the office of John Prentice, Londonderry. "If I had remained in Atherton's office," he says, in a letter to Coleman, "I should now have been eighteen months nearer an admission to the bar, which, to a man as old as I am, is a matter of some importance. But I am now reading law with my parents' approbation, and in some other respects I have lost nothing by the delay." By the terms of the contract, he was to remain two years with Prentice, do the business of the office, and pay him five hundred dollars for his board and tuition; and two hundred more if he took the profits of the justice business. This last he soon determined not to take. The income from this source was likely to exceed the two hundred dollars; but he was fearful it would tempt him to encourage this species of petty litigation, at a time when, from his poverty, the temptation could not but be strong, and might betray him into disreputable practices. Considerations of this nature induced the bar, some years later, to prohibit, on his motion, students from receiving any emoluments from this source.



His new instructor, a graduate of Harvard college, though probably not a well-read lawyer, possessed a respectable standing at the bar; and, like Atherton, was afterwards Attorney General. His law library consisted at this time of Blackstone's Commentaries; Wood's Institutes of the Laws of England; Hawkins's Pleas of the Crown; Jacobs's Law Dictionary; Salkeld; Raymond and Strange's Reports; the New Hampshire Statutes, and a manuscript volume of Pleas and Declarations. If the reader is disposed to smile at this scanty library, he may be reminded of the anecdote of Patrick Henry, who, on applying for admission to the Virginia bar, and being asked by Mr. Jefferson, what books he had read, replied with entire confidence in the extent of his legal acquirements, "Coke upon Littleton, and the Virginia Statutes." A New Hampshire lawyer, of the same period, was probably not much deeper in book learning than the Virginia orator. "In the simple and happy times of Edward I," says Lord Campbell, "Glanville, Bracton, and Fleta composed a complete law library." In the sixteenth century the books of the common law might, according to Howell, be carried in a wheelbarrow. They now go by cartloads, and heavy at that.

My father resumed his legal studies with the reading of Blackstone, and, though the attractive style and clear method of the great commentator made the

task easier than he had found it at Amherst, it was still so difficult as to bring his parents' wishes sometimes to his mind. But he soon became familiar with his author's manner, saw the subjects discussed in their true bearings, and relished daily, more and more, the science whose principles he was now beginning to comprehend. He read the whole of Blackstone rapidly through, in the first instance, to acquire, in this way, a general idea of its contents; and then went over it, more carefully, a second time, with a view to its more thorough comprehension. He devoted at least ten hours a day to this study, though he seldom read more than forty or fifty pages in that time. But these were carefully studied, or, if not fully understood, at least, examined with his best care and attention. His instructor was not much inclined, nor indeed always able, to answer the questions which he asked; and the few books within his reach often failed to furnish the desired information. Under these circumstances his practice was, after reading a portion of Blackstone, to trace the subject through other books; and then, taking a walk in some retired place, to review in his mind the substance of what he had read, examining the relations of one part with another, and of the whole with what he had learned before, till he felt himself master of the lesson, and prepared to go farther. These walks, extending sometimes several miles from his home, gave him the

advantage at once of exercise, and of study and reflection. Thus he went slowly, but surely and regularly, through the Commentaries, connecting them, as he proceeded, with whatever he could gather on each subject from other sources; till the whole system of the English law stood at length before him, with a clearness of outline, and distinctness of parts, which never afterwards faded from his memory, and which subsequent study, aided by long-continued and assiduous practice, enabled him finally to fill out with great accuracy and precision in its minor relations and minute details.

On the important subject of Pleas and Pleading, Prentice had no books, except a manuscript volume of forms, said to have been collected by Theophilus Parsons. This the student copied, and added to it, in the course of his practice, such other pleas and declarations as he thought worthy of preservation, whether drawn by himself, or derived from other sources. He, at the same time, took copious notes of his reading, and formed abstracts and digests of the law under separate heads, thus reducing his knowledge to a regular system.

In these assiduous labors, the period of his legal studies passed rapidly away. Every day added something to his knowledge, and more to the pleasure which his studies gave him. He had found, at length, his true destination; and he labored in it with zeal,

heightened by regret at the thought of the years spent by him in less congenial pursuits. These years had not, however, been lost upon him. Besides the severe mental discipline through which he had passed, they had made him acquainted with many aspects of society, and brought before him, for keen inspection, the minds and the manners of men in the various walks of life, and their modes and motives of action. Nor was this kind of experience likely soon to fail him.

In February, 1786, he took his seat once more in the legislature, which met at Portsmouth, and continued in session till early in March. He bore an active part in the business of the House, and began now to display something of those talents and attainments which gave him, at a later period, a commanding influence in the state. He cultivated the acquaintance of the leading men, both in and out of the legislature; and came to understand better than before the characters of public men, and the interests and the feelings which prevail in the political and the civil walks of life.

After an absence of six or seven weeks, he returned with fresh alacrity to his legal studies. Alternately a law-student and a law-maker, his thoughts were turned to practical results, rather than to abstract principles, or theoretical deductions; and this predilection was ever after the marked characteristic of his mind,

which was little given to speculation, and not at all to untried experiments in pursuit of imaginary good.

As he no longer resided in Epping he was not, this year, a candidate for re-election to the House. He however attended the Legislature at its June session in Concord, where he was employed in draughting bills, and supporting petitions before committees of the two houses; extending in the mean time his acquaintance with public men, watching the progress of public measures and, in some instances, influencing their course.

The aspect of the times was indeed dark and gloomy, and had been so for several years. The period from the termination of the war to the establishment of the general government, if not so stirring as the preceding, was one of the most important and trying in the history of the country,—a period of depression and distress such as had hardly been felt in the sharpest crisis of the war itself. The close of hostilities with England brought with it no relief to the sufferings of the people, but seemed for a time rather to augment them. A feeling of very general discontent pervaded the public mind, no longer held in check by a foreign foe. The government was weak and inefficient, the people poor and in debt, credit both public and private impaired, or rather well nigh destroyed. A depreciated paper currency took the place of specie; tender-laws and

the further issues of paper were loudly called for by the discontented and debtor party, as the only remedy for the great and acknowledged evils of the times; and the courts of law were more than ever surrounded by mobs, whose avowed purpose was to prevent the judges from proceeding in the trial of cases. An incident of this kind had occurred a few years earlier, which impressed Mr. Plumer deeply with a sense of the necessity of a more energetic and efficient government; and which was followed at a later period, by a similar outbreak of popular feeling, in suppressing which he was himself actively engaged.

In October, 1782, as the Judges of the Superior Court, accompanied by John Sullivan, then Attorney General, were approaching the town of Keene, where the general uneasiness was augmented by the controversy with Vermont, they were informed that the village was full of people, whose object was to compel the court to adjourn without trying any cases. On the receipt of the information, the cavalcade halted in a small wood, to consult as to the course proper to be adopted in this emergency; and the result was that Sullivan undertook to get the court, with as little loss of dignity as might be, out of the hands of the mob, who, if resolute, must, it was foreseen, have very much their own way, as the court had no armed force at its command, and the *posse comitatus* would in vain have been called to their aid, in the then excited

state of the public mind. Taking from the portmantau of his servant his regimentals, which it seems he had with him, Gen. Sullivan arrayed himself in his full military attire—the blue coat and bright buttons which he had worn in the retreat from Long Island, the cocked hat whose plume had nodded over the foe at Brandywine, and the sword which at Germantown had flashed defiance in the front of battle. Thus equipped, he mounted the powerful gray horse which he usually rode, and, preceding the court, conducted them into the town. A portion of the people mounted on horseback had come out to meet them. These he ordered to fall in, two and two, behind the court, Arthur Livermore, then a youth of sixteen, acting as his volunteer aid on the occasion. The grounds surrounding the court-house were filled with men, many of them armed, who, though giving way to the court as they entered, were sullen in their aspect, and resolute in their purpose to prevent the transaction of business.

The judges having taken their seats, the court was opened in due form by the crier, while the crowd rushed tumultuously in, and filled the house. In the meantime, Sullivan, who was a man of fine personal appearance, dignified aspect, and commanding deportment, was seen standing erect in the clerk's desk, surveying the crowd calmly, but resolutely. In it were many who had recently served under him in

the war. Turning slowly from side to side he recognised among them here perhaps an officer, and there a soldier; and returned with a slight nod or motion of the hand their respectful salutations. This mutual survey and recognition continued for some time, amidst the profound silence of all around; while the instinct of obedience was working strongly in the mass, who felt the presence, and involuntarily obeyed the motions of their old commander. Slowly and with composure he now took off his cocked hat, disclosing a profusion of white powdered hair, and laid it deliberately on the table. Looking round again with an air of authority, he next unbelted the long staff-like sword from his side, and laid it by the hat. Perceiving, at this moment, some stir in the crowd, he hastily resumed the sword, drew the blade halfway from the scabbard, as if for immediate use, and then replaced it deliberately on the table. All eyes were now fixed intently on him, as he addressed the assembly, and demanded of them why they had come in this tumultuous manner before the court. A cry at once arose of "The Petition, the Petition," and a committee stepped forward with a huge roll of paper, which they were about to present, when Sullivan told them, if they had anything to offer to the court, he would lay it before them. He accordingly received it, and, after looking it over, presented it to the court, saying that it contained matter of grave import, which



he recommended to their honors' careful consideration. The court ordered it to be read by the clerk, and Sullivan then addressed the people, courteously, but firmly, on the impropriety of any attempt to influence, even by the appearance of violence, the deliberations of that high tribunal; and, telling them that their petition would, in due time, be considered by the court, he directed them to withdraw. Some hesitation being at first shown, he repeated, more sternly, and with a repellent gesture, the command to withdraw, which was obeyed, though not without some reluctance among the leaders. The court then adjourned to the next day, in the hope that the mob would leave the town. In the afternoon Sullivan addressed them on the subject of their complaints, and advised them to return to their homes.

On the opening of the court, on the next morning, the house was full of people impatient for the expected answer to their petition. Sullivan, now in his citizen's dress, rose, and, with mingled grace and dignity, said that he was instructed by the court to inform them, that, finding that they should not be able to go through with the very heavy civil docket before them in the short time which they could alone devote to it before going to another county, they would continue all causes in which either party was not ready for a trial. On receiving this announcement the people withdrew, amidst loud shouts of

hurrah for Gen. Sullivan," with here and there a faint cheer for the court, which seemed on this occasion to act quite a subordinate part in the scene. The mob thus carried in effect their main point, that of postponing the transaction of business; but the presence of mind and authority of the Attorney General prevented their breaking out into open violence, and saved the court from any personal indignity.

I received the above account from Mr. Webster, a short time before his death; when, though occupied with current events, he seemed to have lost none of his interest in the past. He added, "Put this into your book; it will show the character of the times, and the kind of men your father had to deal with." I repeated the story, soon after, to Judge Livermore, who supplied the part relating to himself, and seemed inclined to give less prominence to Sullivan, and more to the court, than Webster had done. He retained, however, in extreme old age, a lively recollection of his youthful adventure, and of the skill and eloquence of Sullivan. "I thought," he said, "if I could only look and talk like that man I should want nothing higher or better in this world."

In Massachusetts a similar condition of things, in the autumn of 1786, produced the rising called Shays's rebellion; and in this state, at an earlier period of that year, events seemed fast tending to a like danger-

ous issue. Town and county conventions were held in various places, to petition the Legislature for a redress of grievances, and delegations from some of these conventions were sent to Concord, in June of this year, to present these petitions, and to carry out the objects of their appointment.

Satisfied from the character of the men and the temper of the times, that reasoning would be lost upon them, my father, who, as already stated, was at Concord, though not a member, conceived the idea of turning their proposed convention of delegates into ridicule, and thus rendering its pernicious purpose harmless. He was aided in the project by several active young men, some of whom were afterwards distinguished in the service of the state. The plan was for these persons to join the convention, to take part in its proceedings, and ultimately to expose the folly and absurdity of its measures and pretensions.

On entering the convention they were received without question, as delegates from their respective towns, and took at once the lead in its proceedings. After a debate of several hours, in which the pretended delegates, eleven in number, vied with the true ones in their zeal for reform, taking different sides, however, to avoid an appearance of concert, a series of resolutions was adopted by the meeting, and a committee, of which my father was chairman, was appointed to report a petition to the Legislature.

This petition, which was reported the next morning, embodied the substance of the resolutions, and was unanimously adopted by the convention. It requested the Legislature, among other things, to abolish the Court of Common Pleas, to establish town courts, to restrict the number of lawyers to two in a county, and to provide for the issue of state notes to the amount of three millions of dollars, the same to be a legal tender in payment of all debts. These were the favorite measures, especially the last, of the discontented and debtor party, through the state; and they went not at all beyond the popular demand. The mock members, indeed, with all their disposition to render the convention ridiculous, could hardly keep pace with the real ones, in the extravagance of their suggestions. Dr. Jonathan Gove, of New Boston, who represented ten towns in Hillsborough County, said, "While we are money-making, 't is best to emit as much as will discharge all our debts, public and private, and leave enough to buy a glass of grog and a quid of tobacco, without being dunned for them twenty times a day. For these purposes I move that the amount be twelve millions of dollars." It was on my father's motion that the sum was finally fixed at "only three millions!" The convention went in a body to present their petition to the Legislature, which received them very gravely, and laid their memorial on the table. The

speaker and some of the leading members had been informed of the character of the convention, and received its visit with ceremonious attention, or, as one of the delegates said, "with superfluous respect."

On returning to their place of meeting, my father remonstrated with them warmly on their proceedings, and avowed his opposition to their whole system of measures. This sudden change of tone, in one who had been the chairman of their committee, and the draughtsman of their memorial to the Legislature, created not a little surprise, and some indignation, in those who did not understand the trick which had been put upon them. After allowing these feelings to explode, in some rather free remarks, from two or three of the more earnest reformers, one of the mock members, who thought the joke might be carried a little further, rose, and said with great gravity, that as doubts had arisen in some minds, whether the convention was sufficiently in earnest in what they had said and done, this movement of the worthy member from Derry was intended to put their courage to the test; to see, in short, if they were indeed men of true pluck, or cowards who could be driven from their purpose by a show of opposition. If he found they could stand fire, he was ready to propose to them more energetic measures, which would compel the Legislature to comply with their wishes. This speech was received with loud applause by the

more ignorant and zealous; but the greater part began now to understand the true state of the case, and the convention broke up in disorder, amid the jeers of the spectators, and to the sore mortification of its original projectors. Gove left Concord without presenting the petition with which he was charged, and others disavowed their connection with the convention. The ridicule which this brought upon them, checked their activity for a time, and prevented their success with the Legislature, where they had many friends, and had felt great confidence of success. "The whole affair," writes the author of this clever stragem to his brother, June 9th, 1786, "was so farcical that the very name of a convention is here a term of reproach."

But the evil was too deeply rooted to be thus easily removed. New conventions were called in different parts of the State, and among others, one in Londonderry, where my father then resided. In the Rockingham convention, held in Chester, it was resolved to send to Exeter, where the Legislature was to meet in September, a body of armed men to enforce their claims. On the 20th of that month about two hundred men, under the command of Joseph French of Hampstead and James Cochrain of Pembroke, some armed with muskets, and others with clubs, marched into Exeter, and sent in their petition to the General Court, for a redress of grievances, declaring their

intention, if it was not granted, to do themselves justice. They surrounded the house in which the Legislature was in session, and, placing sentinels at the doors and windows, demanded an immediate answer to their petition. The House appointed a committee on the petition ; but the Senate, under the influence of Sullivan, who was now President of the State, and as such, had a seat in the Senate, refused to act on the subject, while they were thus besieged by the mob, and proceeded with their ordinary business. In the mean time a party of the friends of order, among whom my father was one, armed themselves, and called upon all good citizens to disperse the mob, and thus set the members of the Legislature at liberty. General Sullivan came out, accompanied by Nathaniel Peabody, who was supposed to favor their designs, Ebenezer Webster, and other officers of the revolution and friends of government, and, addressing the mob, ordered them to disperse. The armed citizens in their rear, pressing on them at the same time, and calling for the artillery to advance, though in fact there was no artillery at hand, the mob began to disperse, and French, finding that the Legislature could not be frightened into compliance with his demands, ordered his men to withdraw, and retired with them for the night to a distance from the village.

Sullivan, no longer compelled, as at Keene, to yield to the wishes of the mob, dispatched orders to the

militia, who came in the next morning to the number of nearly two thousand men. My father with five others had, in the meantime, arrested one of the leaders of the insurrection, Captain John McKean, of Londonderry, who had come into town to obtain intelligence for the insurgents. On being discovered, he drew a pistol and threatened to shoot whoever should approach him ; but my father closed in upon him and made him prisoner. A party sent to demand his release was at once seized and put under guard. The troops, under Maj. Gen. Joseph Cilley, now marched against the insurgents, who made some show of resistance, but, on being ordered by Major Cochrain to fire, they broke and fled in disorder. "We took," says my father, "thirty-nine prisoners, who, after marching through our columns with their heads uncovered, and hats under their arms, the music playing the Rogue's March, were lodged in jail." In Parker's History of Londonderry it is said, that the troops were under the command of General George Reed ; my father says, under that of General Cilley. Reed may have been present, and Cilley led the charge. Cilley was Major General at this time, and Reed Brigadier. Whiton says, "General Cilley with a troop of horse made a rapid charge on them."

The question now arose as to what should be their punishment. They had been guilty, perhaps of treason, certainly of some high offence. The leaders



were brought before the two Houses in convention. French, who seems to have been an honest, but deluded man, made very humble supplications for his life. Cochrain, who had been a soldier in the revolution, plead for pardon with some self-respect, urging his past services, and stating, as did French, that he had been encouraged in the course he had taken, by men of high standing in the state, some of them members of the Legislature, who, when the hour of trial came, had kept out of sight, and now denied all connection with them. "I was now as anxious," says my father, in a letter to his friend John Hale, (Sept. 26th, 1786,) "to have these men discharged, as I had been busy on Wednesday in capturing them. As usual in such cases, those who were forward in taking them were inclined to mercy, while those, who in the hour of danger were in the background, were the most violent against the deluded prisoners. They will, I trust, be dismissed, reserving a few only of the leaders for punishment." This was accordingly done. Those who were church members were dealt with by their churches; those who were officers in the militia were dismissed from the service. Most of them were indicted, but allowed, at the next term of the Court, to escape without punishment. It was deemed good policy, as no blood had been shed, to treat this first attempt at armed resistance to the government with lenity; yet so as to vindicate the violated authority

of the law, thus attacked at the fountain head. French, the Wat Tyler of this rebellion, was a well-meaning, but vain and conceited man, whom the agitations of the times had thrown upon the surface, as the largest bubble amid the froth and feculence of an uneasy and restless populace. On leaving home with his party, he had told his townsmen who staid behind, that he was going on an important public mission, in which he might himself make no mean figure, and that they must not be too much surprised if, within a week, they should hear that he, whom they had hitherto known as plain Joe French, was no longer their neighbor and equal merely, but President and Commander in Chief of the State of New Hampshire! These visions of power and of glory had, in the brief space of three days, vanished from his sight, and he found himself a despised prisoner and a suppliant for his life.\*

This was the only occasion on which my father ever bore arms, or made any approach to the character of a soldier. He entered into the contest with the more zeal, as he looked on mob-law as subversive of the first principles of a free government, and was jealous of all interference with the constituted authorities. "If the Legislature," he wrote to Hale, while the contest was still undecided, "will maintain their dignity

\* I had this anecdote of the speech of French to his townsmen, from Daniel Webster, whose father was at Exeter at the time.

within their own walls, they will receive ample support and reverence without. They ought to *give* the tone, and not *receive* it from the people. The *few*, and not the *many*, are the wise, and ought to bear rule."

On his return to Londonderry, he was told that his activity in suppressing the insurrection had exasperated the people of the town, many of whom had been out with French and Cochran; and that it would not be safe for him to show himself among them. On hearing these threats, he mounted his horse the next morning, and rode leisurely and alone through the infected district, stopping to converse with those he met, and calling on several whom he had seen among the insurgents at Exeter. He was received by some with congratulations on his courage and activity, and with jests on their own ill-luck and folly; by others with abject fawning and humility, or with awkwardly assumed respect; but by none with menace, reproach, or disrespect. They felt that the day for violence had gone by, and that he was not a man whom they could insult with impunity. Many of them afterwards acknowledged that he deserved their respect far more than those cunning and cowardly men, who had urged them on in the first instance, and then deserted and denounced them.

From this excursion into the field of politics, I might almost say of war, he gladly returned early in October to the quiet of his legal studies, and to the

duties of the office. Prentice, who was indolent and careless, willingly left him to manage the business in his own way, which he as willingly undertook.

He had a natural aptitude for business; thinking nothing of the labor, or rather seeming to love it on its own account. For the ensuing year, 1787, therefore, he continued to reside with Prentice, pursuing with great assiduity and with increasing pleasure his legal studies; attending the courts while in session, and doing the office and now also the justice business, which last was then an extensive branch of practice.

He had not expected to be admitted to the bar till February of the next year, as he had been absent nearly three months out of the two years then required. But, he being at Exeter in November, 1787, the bar, without any previous examination, and without his knowledge, recommended him to the court, by which he was at once admitted to practice. John Hale, of Portsmouth, and Jonathan Steele, of Peterborough, were admitted at the same time. With Hale, who was a man of fine talents, he was on terms of great intimacy, and they corresponded till the death of Hale. Steele was afterwards a Judge of the Superior Court. On being admitted to the bar, my father returned to Epping, went to live on his farm, and opened an office there. His business was considerable from the first, and soon became extensive.

The time which he had passed at Londonderry had

been pleasantly and profitably employed, and he had many reasons ever after to remember it with satisfaction. Young, and ambitious of distinction, original and peculiar in many of his views, eager in the pursuit of knowledge, and ready alike to impart and to receive information, he entered earnestly into whatever he undertook, and felt himself equally happy and well-employed, whether in study, in action, or in society ; finding in each full occupation for all his powers, now first conscious of their appropriate sphere of activity and exertion.

The Scotch Irish of Derry were a people distinguished from their neighbors by many peculiar customs and striking traits of character. Combining the broad humor of the Irish with the canny shrewdness of their Scottish ancestors, they were a deeply-marked, strong-willed, and eccentric people. Their originality, energy, and decision of character were akin to his own, and led to mutual respect and esteem ; though on many subjects he differed widely from them. I was told, many years ago, by the noted surveyor and mathematician, John McDuffee, who was a Derry man, that my father made a very strong impression on all who knew him at that time ; that he was full, to overflowing, of life and activity,—a life which seemed ever happy and joyous, and an activity which pushed itself out in every direction ; prompt in business, and ready in debate ; a great stu-

dent, and a lively and original talker, whose sharp sayings were in every body's mouth, and whose heterodox opinions brought down on him the censure of the old and the rigid, while they excited the wonder and the admiration of younger and more inquisitive minds.

In the spring or early summer of this year, 1787, he formed the acquaintance of one who was thenceforth to be the companion of his leisure, the mother of his children, and the sharer, for good or evil, of his hopes and his fears, his prosperous and his adverse fortunes. This was Sally Fowler, the only daughter of Philip Fowler, a respectable farmer of New Market. He had seen her some years before, at the house of her father, whom he had visited on business. On returning home he told his mother that he had seen the person whom he should choose for a wife, if he should ever entertain serious thoughts of marriage. Time and change passed over him, and as years advanced, and the want of some object on which his affections might repose began to be deeply felt, it is not strange that on meeting again with Miss Fowler, who was now on a visit to her friends in Londonderry, his old feelings towards her should revive with more than their original force. It was during the Derry Fair, which brought together people from all the neighboring towns, and at a mock court in which he and several other young men took part, that she first

witnessed the display of his oratorical powers. On leaving the house the girls were discussing the merits of the several speakers, and most of them gave the preference to the ready wit and handsome person of Moses L. Neal. "A lucky girl is she," said her cousin, "who gets that bonny bairn for a husband." "Ay, ay," was the ready response of several voices. "No," said my mother; "if I were to choose, it would be that Epping lawyer, clearly before all the rest." "What," said her lively cousin, "with his lean figure, long nose, and dark complexion?" "Yes," was the prompt answer, "with his manly face, and his bright, beautiful eyes; and what is more," she added, "with his good sense, and his right feeling. I think he is superior to any of them." The preference thus casually expressed, followed soon by an avowal of like feelings on his part, ripened into an attachment which lasted in both to the close of life.

She is described as being at this time of a singularly fair complexion, fine person, possessing great sweetness of disposition, pleasing manners, sound sense, and good judgment. That she was all this, even to the fair complexion and fine person, those who knew her in old age will readily believe.

It was not till after full acquaintance that they were finally and formally engaged to each other. In this most important step of life Mr. Plumer had, as usual with him, the severe check of reason over his

affections. He made no formal proffer of himself till he was satisfied in his own mind that the attachment was, on his part, not the mere impulse of hasty passion, but a deliberate purpose, moved by feeling indeed, yet guided by reason; and that on her part too it was equally sincere and deep-rooted. Satisfied of the depth and sincerity of their mutual attachment, he gave himself to this new passion with his usual directness, and with even more than his usual ardor. Between the excitements of hope, love and ambition, study and business, he felt the old vigor and warmth of his intellect and his heart, which had been first roused and excited by the fever of his religious enthusiasm, and then perplexed and cooled by the disgust of his subsequent disappointment and unbelief, come back to him in their pristine strength and purity, in brighter prospects, in purer hopes, and nobler aspirations of enjoyment for himself, and usefulness to others.

The year which followed this engagement was among the happiest of his life. The vague feeling of a want of object no longer remained. His doubts, fears and anxieties were relieved, his ambition was excited, and his scheme of life was shaping itself into definite purpose, with a steady aim to speedy action.

Love and fortune-telling have been immemorially connected, and they were so in this case. Just before my mother went to Derry, an old woman came



in, one day, who offered to tell her fortune. This proposal she at first declined, but consented at the request of her mother. After examining her hand, and inspecting the dregs of a cup of tea, the sibyl proceeded with her prediction: "You are courted," she said, "by a widower. He is young and handsome, of a light complexion, and dressed in black." "You have been inquiring of the neighbors," said my mother, who had in fact received the addresses of a person answering to this description, whom on nearer acquaintance she had determined to reject. "But you will not marry him," added the fortune-teller. Here the mother, who favored the match, began to look serious, and said, "None of your nonsense." She, however, went on, "You will not marry him. Here," pointing to another part of the cup, "is your husband,—this tall, dark complexioned man, with black eyes and black hair. He will carry you into a new house painted red, with a number of old houses near it. These will be pulled down and new ones built. You will have six children. Your husband will become rich, and arrive at great honors; and you will both live to a good old age." In telling me this story, my mother added, "I did not then believe a word that she said, except what I supposed she had learned from the neighbors; nor do I now know what to think of it. One thing is certain, that *all* she told me has since come to pass. You may call it a lucky guess, or what

you will ; but the facts are as I have told you." The old woman left the house immediately ; and, on inquiry, they could learn nothing of her in the neighborhood. No one had seen her, and she never came to see them again. My father, who had no faith in such stories, said that the old woman was doubtless some friend of his, (though he knew nothing of her,) whose good opinion of him was the secret of her divination. Yet, while laughing at my mother for her credulity in this case, he admitted that the circumstances were remarkable ; and said that he had himself, more than once, seen and heard things, apparently supernatural, which he could neither doubt or explain away. In these days of clairvoyance and spiritual revelations, the facts in this case seem worth relating, as adding something authentic to the mass of evidence, out of which a consistent theory may in time be constructed on the subject. There are already facts too well authenticated to admit of doubt, and too numerous to be set aside on the score of improbability, pointing to conclusions strange and most unexpected, which it is the part of wisdom neither blindly to reject, nor rashly to admit.

After her return to New Market my mother met with an accident which threatened to deprive her of the use of one of her hands, and, with the high spirit of a woman who felt that she ought not to be a burden to the man whom she loved, she told him, with

tears but with fixed purpose, that she could never consent to go maimed or a cripple into his house, and that he must therefore consider their engagement as now at an end. He remonstrated strongly against this decision, and said that however it resulted she would be equally dear to him, and he would take no denial on such grounds. She gave him, however, no hope, except in the event of recovery. He returned, full of sorrow, with the sad news to his mother, who prepared and sent back by him a prescription which in due time effected a cure. The lame hand, or rather the well hand, then returned gladly where the heart had gone before. The impatient lover was, indeed, at this time, in no condition to support in idleness a helpless wife; for, though he owned a half-finished house, and some land, he was five hundred dollars in debt for his education, and had as yet little business on which he could rely. Neither of them, however, felt much anxiety, provided only that their health was good, and they had strength to labor. They were accordingly married without further delay, February 12th, 1788, and, as soon as the necessary arrangements could be made, commenced house-keeping, April 1st, on the spot and in the mansion where they ever after resided.

In carrying home his bride, he obtained the use of the only chaise then owned in Epping. This belonged to his cousin, Enoch Coffin, who, being orig-

inally a Newbury man, had been the first to introduce into the town what was then a rare luxury, and, as his ruder neighbors thought, an item of unnecessary expense and unjustifiable extravagance. Riding on horseback was then almost the only mode of traveling. Horses were trained to pace, or rack, which was much easier to the rider than trotting. In this way the longest journeys were performed—often over roads which hardly admitted of any other mode of conveyance. When the distance was short, as to the meeting house, or to a neighboring town, the same horse often carried the good man and the wife, with a child in her arms, on the pillion behind. I was carried once in this way, from Epping to New Market, and back the same day. Our more ordinary mode of conveyance was for the father and child to be mounted on one horse, and the mother on a second. This was for some years our only resource. When pressed by business, and importuned by the children for a ride, my father would sometimes say to us, "Wait a while, till I get more money, and we will then have a coach of our own, and leisure to ride as often as we please." The coach, however, never came, and not so much of the leisure as we could have desired; but the enjoyment was none the less real when we rode out together, the children, one in the lap, and two in front, in the old-

fashioned, square-topped chaise, which he found himself able, in due time, to own. This, however, was at a later period. In the meanwhile, prudence, industry, and temperance brought with them their usual rewards of health and enjoyment, followed first by competence, and finally, by what, in a country town like this, at least, was accounted wealth. The sibyl's prophecy of the six children was also beginning to be fulfilled, first, in the birth of a son, the author of this Memoir, February 9th, 1789, then of a daughter, followed by that of four sons—one of whom died in infancy, another just before his parents, while the others still survive.

Fortunate, indeed, was he in the partner of his life. A piety sincere, but without ostentation or display; an affectionate regard, and even reverence for her husband; the most unwearied care of her children; a steady supervision and control of her household affairs; prudence, economy, good sense, and sweetness of temper, were among the virtues of her daily life. Though not young when married, they lived together for sixty-three years, not only without the slightest jar or discord, but with a tenderness always warm, and increasing to the close of life,—a rare example of maternal fondness and fatherly care, which their children alone could fully appreciate, though known to, and remarked by the wide circle of

their friends and acquaintance. The wife differed indeed from her husband, in having little taste for literature, yet her knowledge, derived principally from conversation, was extensive, and, for all practical purposes, fully adequate to her needs.

## CHAPTER IV.

### THE LEGISLATOR.

THE year 1787 is memorable as that in which the constitution of the United States was formed. Highly as that instrument is now prized, it was not received with much favor by the people on its first promulgation. It met, in all the states, with many opponents; and in several it was adopted only after repeated trials, and by small majorities. In more than half the states, its ratification was accompanied by proposed amendments, some of them of a character materially affecting its essential provisions. Without these proposals of amendment it would probably have been rejected by a majority of the states. A government, in the proper sense of that word, was by this constitution, for the first time, proposed for the Union. It is not strange, therefore, that there should have been differences of opinion, not only as to its necessity, but, that admitted, as to the nature and extent of the powers to be delegated. The votes of the revolutionary congress had no legislative authority. They were recommendations, to which a sense of common danger alone gave the force of laws. Even the arti-

cles of confederation, which did not go into operation till 1781, merely formed a league or alliance between independent states. What was now proposed was, not a compact between sovereign communities, bound only by treaty stipulations, but a frame of government for the people of the United States; acting not on state legislatures, but on individuals; a government limited in its powers, but supreme within its own sphere of action, and dependent on its own agents alone for the execution of its purposes. Whether such a government should be adopted was the question now presented to the people for their decision. By some it was contended that the separate states could, in ordinary times, best govern themselves; that their interests were in many respects different, and in some adverse; and that a general government must favor some at the expense of others, and might end in oppressing all. In time of peace, said they, let each state govern, as best it can, its own citizens; entering into such compacts with its neighbors as their mutual interests may require. These leagues will form, by degrees, clusters of contiguous states, one at the north, another in the centre, a third at the south, and in due time, others in the west. A war with any great European power, if such an event should occur, would lead, as in the revolution, to the union of the whole; the union lasting while the danger from abroad pressed upon them, and leaving them, at its



close, separate and independent. Others, who didn't go this length, thought that little was wanted by the congress of the confederacy beyond what it already possessed, except the power to regulate commerce with foreign nations, and to decide, in the way of arbitration, questions of boundary, and other disputes which might arise between the states. These latter no less than the former, were opposed to the establishment of any general government. Even among those who admitted the necessity of such a government, many thought that its powers should be much more limited than those contained in the new constitution, which in their view had, in the language of Patrick Henry, "an awful squinting towards monarchy." They looked with apprehension on its most important provisions, and saw danger to the liberties of the people in its vast, undefined, and, in many respects, undefinable powers. They held that the proposed constitution should be rejected, and another formed with powers more limited and better defined.

On the other hand, so various were the shades of opinion, and so differently did men, equally intelligent, think on the same subject, that there were not wanting those who held that the great defect of the new constitution was its want, rather than its excess, of power for the purposes of its institution. The danger which they feared was, not tyranny in the head, but anarchy in the limbs; and they predicted that, in an

serious contest between the general government and the states, the latter would be found the stronger of the two. Washington, Hamilton, Jay, and probably Madison, were of this opinion. They, however, gave to the constitution their cordial support, as the best that could then be obtained, and as likely, if adopted, to lead, in time, to something better. Hamilton had proposed in the convention, as expressing his idea of what was desirable, an executive, judiciary and senate, to hold their offices during good behavior, and a house of assembly to be chosen for three years. Madison's first plan for preserving the subordination of the states to the general government was either to give congress a veto on the state laws, or to vest the appointment of the governors of all the states in the President and Senate. "Real liberty," said Hamilton, "is neither found in despotism, nor in the extremes of democracy, but in moderate governments. Those who mean to form a solid republican government ought to proceed to the confines of another government," that is, monarchy.

We have, in these facts, a clew to the origin of the two great parties which have since divided the country; and which were not long in drawing into their vortex the various local parties and associations, that had before disturbed the states, without being broad enough to embroil the continent in their action. The friends of the new form of government took the name

of Federalists, or supporters of the Federal constitution ; their antagonists that of anti-Federalists, or opposers of the constitution. After its ratification, the friends of the first two administrations retained the name of Federalists, while their opponents took that of Republicans. To these first party names have succeeded those of Whigs and Democrats. It would, however, be a mistake to suppose, that either party has been, at all times, true to its avowed principles. The Republicans in office were often liberal, and the Federalists out of office strict, in their construction of the constitution ; and claimed or denied authority, in many cases, very much as the one party was to gain or the other lose by its exertion. In general, however, the Federalists were in favor of a liberal construction and exercise of the powers of the general government ; and the Republicans, in theory always, and to a considerable extent in practice, were for narrowing down those powers to their least possible extent. The former deemed a strong central authority necessary to the welfare of the whole ; the latter, dreading such authority in the general government, leaned strongly to state rights and state power, as paramount to all others. Men equally honest and intelligent have belonged to both these parties. Even the same individual might, as in fact many did, act with little or no inconsistency, at different times, with either party, as he thought the one or the other

pushing its doctrines, in any given case, into an extreme injurious to the public interests. Other marked differences have, at all times, existed between the two parties; but this showed itself from the first, and may be regarded as fundamental. In a case of delegated power, the first question always is, Does it exist? and the second, Shall it be exercised in this case? Such is the united influence of interest and feeling over the mind, that the decision of the second question very generally carries the first with it. Those who think the power beneficial, have little difficulty in finding it in the constitution; while those who, for any cause, do not wish to use it, readily persuade themselves that it is not there. Public opinion overrides constitutional barriers; and finds, perhaps, its only effectual control, in an adverse public opinion, equally fixed and unyielding. "Paper and parchment bind not hearts and hands."

The question, however, was not, on this occasion, as to the value of constitutions in general, but as to the policy of adopting the one now proposed. On this point my father had no doubts. He was a Federalist, in the sense of being in favor of the new constitution, and he used his utmost exertions to secure its adoption in New Hampshire. He was a candidate for a seat in the convention, but was not elected, the town of Epping being decidedly anti-Federal. In a letter to Daniel Tilton (Dec. 10th,

1787,) he says: "The constitution is opposed here by many, because they think it a grant of too much power. My fears are all the other way. In my opinion, the executive is not strong enough; and the powers delegated to the Congress, though in some respects ample, are in others too much restricted."

The convention, which met at Exeter (Feb. 13th, 1788,) to consider the new constitution, adjourned, after a session of ten days, in which it was ascertained that a majority of the members would vote against it, if the question was then pushed to a decision. They met again at Concord, and agreed to ratify it, (June 21st, 1788,) by a vote of fifty-seven yeas to forty-seven nays; but not without proposing several amendments. The ratification of nine States was required to put the new government into operation, and the accession of New Hampshire completed that number. The amendments proposed had for their general object to restrict within narrower limits the powers of the federal government, and to define more precisely the rights of the people. The debates in this convention were never reported. A speech of Joshua Atherton against the clause of the constitution which allowed the importation of slaves prior to 1808 has been published; and tradition has also preserved a remark made by him on the slave representation. "If property," he said, "is to be represented in Congress, and in the electoral colleges, our

*neat stock* is as well entitled to be counted as the *black cattle* of the South. By this slave representation you put the yoke on your own necks, and make the slaveholders masters, at the North as well as at the South." This subject did not then attract much of the popular attention; but sagacious men, whose minds were sharpened to fault-finding by dislike of other parts of the constitution, saw in it, even then, the germs of evil, which have since been largely developed.

My father's federalism did not prevent the people of Epping from sending him (March, 1788,) to the Legislature. In going to Concord to attend the November session, (for there were three during the year,) he met with an adventure, which could hardly occur in the present state of the country. It was after the adjournment of the court at Exeter, in the afternoon, that he left that place to take his seat, the next morning, in the House at Concord. He reached home about dark, filled out several writs on demands which had been left in the office during his absence, and, mounting his horse, pursued his journey towards Concord. At Deerfield, his friend Mills urged him to stay with him till the next morning; but, though faint from recent illness, and fatigued with his labors in court, he left Deerfield between eleven and twelve, and was soon lost in the Allenstown woods. He now heard the howling of wolves, and perceived that

he was followed by them. It was dark, his horse became frightened, and he was obliged to stop. The wolves howled, whined, and rushed forward close upon him, without daring, however, actually to attack the horse. After a while he succeeded in urging his horse on, still followed by these unwelcome attendants. It was not till the moon came out, as he emerged from the woods, that they ceased the pursuit; and he heard, for some time, their long howl dying by degrees on his ear, as he traversed the open plain. It was daylight when he reached Pembroke, where, as he rode up to the tavern, he met President Langdon, just coming from his chamber. Langdon was surprised to find him mounted so early in the morning, and more so on learning the adventures of the night. They rode together to Concord, and he was in his seat when the speaker called the house to order. It was by this disregard of personal convenience in the discharge of duty, this promptness and celerity of movement, that he often delighted his friends, and surprised his opponents, by the seeming ubiquity of his presence; the night being spent in solitary and, sometimes, dangerous rides, because every hour of the day was pre-occupied with other engagements, and this, too, when the state of his health was such as would have been deemed by most men a sufficient excuse for inaction.

He early acquired a decided influence in the House. "I spoke often," he says, "but never long, and confined myself strictly to the business in hand; taking care to avoid all personal reflections, except on one occasion, when the nature of the case seemed to require a different course." His conduct on the occasion alluded to was too characteristic to be here omitted. It was in the choice of senators to the first Congress under the new constitution. That instrument, in directing that senators shall be chosen by the State Legislatures, does not designate the mode in which the choice shall be made. By some it was contended that the Senate and House, meeting in convention, should there, by joint ballot, make the election. By others it was held that the election should be by the separate, but concurrent action of the two houses. This was my father's opinion; and, as the Senate refused to go into convention, it was also the mode finally adopted by the House. On proceeding to a ballot in the House, (Nov. 11th, 1788,) it appeared that John Langdon had received all but three of the votes. My father then offered a resolution, which, after reciting the previous ballot, provided "that John Langdon be, and he hereby is, appointed a senator, on the part of this State, to the Congress of the United States," and called for the yeas and nays on the question of its adoption. Nathaniel Peabody, who was himself a candidate for



the Senate, and had friends who did not wish to have it known how they voted, objected to the resolution as inconsistent with the principle of the choice by ballot, or secret vote. My father replied with some warmth that he could not believe that any man, worthy of a seat on that floor, wished to conceal, either from the public or from his constituents, his vote on a question of so great importance; but that, however this might be, he could not forego his right to have the yeas and nays entered on the journal in this case. As there was, in fact, no one who wished to conceal his vote in the case of Langdon, the resolution passed without further opposition, and was on the same day concurred in by the Senate. The next day the choice of the second Senator came on in the House. The candidates were Josiah Bartlett and Nathaniel Peabody. Peabody was a man of talents, an active politician, but of doubtful integrity, and unscrupulous in the use of means to effect his objects. He had been a member of the revolutionary Congress, a member of the Committee of Safety, and for many years an influential member of the Legislature. He was an anti-Federalist; but, as national politics had hardly yet assumed a permanent influence in the state, he received the support of many Federalists in the House, and of some out of it who were leaders in the party. When, on taking the ballot, it appeared that Peabody had a majority of the votes, the same

resolution was offered as in the case of Langdon, and the yeas and nays called for. The object of these calls was now apparent. It was, in the first instance, to establish a precedent; and, in the second, to make it bear on Peabody. When the clerk was about to call the roll, my father rose and addressed the House, with great force and plainness, on the relative claims of the rival candidates; and denounced Peabody, who was present, as morally, politically and personally unfit for the place, and unworthy of the public confidence. On taking the question by yeas and nays, Peabody was found to have a majority of two votes, a support much short of what he had received on the trial by ballot. But the attack, though unsuccessful in the House, was not made in vain. The Senate rejected the nomination, and sent down the name of Bartlett, which was concurred in by the House. He declined the appointment, and Paine Wingate was afterwards chosen in his place. Peabody felt mortified and provoked at the result, talked loudly of his violated honor, and threatened to chastise his assailant. A prompt intimation that more and worse would be said if he moved farther in the business, put an end at once to his threats, though not to his hostility.

At the session in December, held at Exeter, my father was prevented by sickness from attending in the House, till the second week of the session. It

appeared that, at the recent election, no choice of electors of president and vice-president had been made by the people. The law of the state provided that the Legislature should, in case there was no election by the people, choose the five electors required, out of the ten persons having the highest number of popular votes; but the mode of doing this was not prescribed. Here, then, was another question of procedure to be settled; and in this, as in the former case, he was in favor of the separate action of the two branches of the Legislature. The House voting to meet the Senate in convention, and then to make the choice, the latter body non-concurred this vote, and a committee of conference, of which he was one, was appointed. They reported in favor of the separate action of the two Houses. This report was accepted by the Senate, but rejected by the House. The contest continued till towards midnight of the last day (Jan. 7, 1789,) in which electors could be chosen. As the Senate was at length about to yield, he went to their door, and, calling out Col. Tappan, urged them, through him, not to recede from the ground they had taken till he had made one effort more to change the vote of the House. This, after a stormy debate, was effected; though under a protest, on the part of the House, that their present action should not be used as a precedent against them on any future occasion. President Sullivan, who had

violently opposed the claim of the Senate, now rose and said that, as the member from Epping seemed to know the way to the Senate-chamber, he moved that he be a committee to inform that honorable body that their perseverance, aided by their allies in the House, had won for them the victory. This was said in tones of mock solemnity, and with a very respectful bow to the individual thus designated. He rose at once, on being so selected, thanked the House for the honor of the appointment, and, followed by half the members, went with his message to the Senate. It was delivered and received with all due gravity; and this timely pleasantry cleared the brows of many angry politicians, and closed, in good feeling, an exciting and angry controversy.

The prominent part which the young Epping member took in these transactions, the most important of the session, gave him a standing in the House which he never afterwards lost. He was about the same time (Jan. 9, 1789,) appointed a justice of the peace, which was his first executive commission. He lived to be the oldest justice in the State.

But politics, though always interesting to him, were not, at this time, his chief occupation. His business, as a lawyer, took precedence in his mind, alike of the calls of ambition, and the allurements of pleasure. To neither of these would he listen to the neglect of his professional pursuits. Omitting,

however, for the present, any account of his labors as a lawyer, I propose, in the remainder of this chapter, to follow him in his public employments to the period of his election to the Senate of the United States in 1802. In 1789, Epping sent no member to the Legislature; but, in March, 1790, he was unanimously elected to the House. He had been proposed by many of his friends for a seat in the Senate; but he preferred the House as a better field for the exertion of his talents. The old clerk, Judge Calfe, being absent on account of sickness, he consented to serve as clerk till Calfe was able to take the place, and then resigned in his favor. At the commencement of the session he objected to John S. Sherburne's taking his seat as a member, on the ground that he was a pensioner of the United States, and held the office of District Attorney under the general government. "Sherburne, who was," he says, "present when the question was discussed, shed many tears, and even cried aloud like a child. Unmanly as this conduct was, it had a powerful effect on many members; and he was allowed, almost unanimously, to hold his seat. The part I acted on this occasion, instigated by no unfriendly feeling, made him, for many years after, my personal bitter enemy." Sherburne had been, like himself, first, a preacher, and then a lawyer. He was for a short time in the army, where he lost a limb, and thence derived the *soubriquet* of *cork-leg*. He was

a man of talents, gentlemanly in his manners, and insinuating in his address. He was afterwards elected to Congress, and held for many years the office of District Judge. The state constitution, established three years later, settled the question thus raised, by excluding from both houses all persons "holding any office under the United States."

It was the practice at that time for members of the Legislature, who were lawyers, to appear as counsel, and argue cases before committees, and before the House in which, as members, they were themselves bound to act and decide. Besides the undue advantage which this gave their clients, the practice was fatal to their own impartiality of judgment and independence of action. My father refused to put himself in the position of an advocate, where he was bound to be a judge, and endeavored to procure the passage of an order prohibiting the practice. He failed, however, in this; but, following up the effort, in the convention of 1791, he obtained the insertion of a clause in the constitution, providing that "No member of the general court shall take fees, be of counsel or act as an advocate before either branch of the Legislature." Both these prohibitions, inserted on his motion, were adopted by the people, and now form a part of the constitution of the state.

The subject, which, during this and the next year, occupied largely the attention of the Legislature, was

the impeachment of Woodbury Langdon, for neglect of duty, as one of the judges of the Superior Court. My father was opposed to this impeachment, which he thought proceeded from private pique and personal interest, rather than from a regard to the public good; and he refused, on that account, to act as one of the managers on the part of the House. After much ineffectual action, and many delays, the impeachment was finally dropped; the judge having, in the mean time, accepted an office under the United States, and resigned his seat on the bench. The House passed a vote of censure on him, denying his right to resign while under impeachment, in which, however, the Senate refused to concur.

“During these debates,” says my father, “I was assailed by two or three of the members, with a degree of rudeness, discreditable to a deliberative assembly. I replied calmly to their arguments, but took no notice of their abuse. It has ever been my object in debate not to let the angry passions rise, and never to make even the slightest allusion to anything personal in the remarks of others. Besides the higher advantages of such a course, I have found this, by long experience, the most effectual mode at once of mortifying an opponent, and of keeping with me the favor of the audience. If the attack is, in any case, well-founded, I suffer less by submitting in silence to the rebuke, than by showing anger, in addition to being in the wrong. If unjustly abused, the hearers have seldom failed to show by their looks and their actions that the assailant had hurt himself more than he had injured me.”

This coolness and self-possession it was not always easy for him to preserve; yet, by careful discipline, early commenced and long continued, he had acquired such mastery over his passions, that he seldom suffered from their violence. When he found himself angry, he kept his seat and refused to speak, while the excitement continued. When at length he did rise, whatever of warmth manifested itself went into the argument, and not into personalities. No bitterness of retort showed that he felt the venom of the attack, or diverted him from the point at issue to any merely personal altercation. The arguments of an opponent were often assailed with unsparing severity, while his character and motives were treated with uniform respect. He thus united great plainness of speech with a courteous address and a rigid abstinence from personal invective. Though sometimes, in the heat of debate, assailed with rudeness, he was generally treated with much respect, even by those who differed most widely from him. The motto on his signet ring, adopted about this time, was "Respect thyself," a precept, which, as he seldom failed to observe it, few were disposed to disregard in their intercourse with him. This self-respect savored nothing of vanity; but was rather "that pious and just honoring of ourselves," which Milton describes as "the radical moisture and fountain head from which every laudable and worthy enterprise issues forth."



" Ofttimes nothing profits more  
Than self-esteem, grounded on just and right,  
Well managed."

Of other measures of the session, in which he took a part, I may mention here the grant of fifty pounds to Dr. Belknap towards the expenses of his History of New Hampshire. He was in favor of a larger sum, but thought himself happy in being able to get even this small appropriation through the House, which prided itself very little on its patronage of literature. He was successful in defeating, after a severe struggle and by a single vote, the attempt to lay a state tax which had been warmly recommended by the treasurer, but which he considered unnecessary at that time. It was suspected that the treasurer used the funds of the state for his own emolument, when not needed by the public. This charge seemed half admitted, in the ground assumed by his friends, that the public had no concern in the matter, except to see that his bondsmen were good. This business of the state tax was the first of several occurrences, which, happening from time to time, gradually alienated my father from the leading Exeter politicians, while agreeing with them in general politics, and made him ultimately a centre of anti-Exeter influence. That town was in effect, for many years, the political capital of the state. The three Gilmans—John Taylor, Nicholas, and Nathaniel—Oliver Pea-

body, Samuel Tenney, Benjamin Abbott, George Sullivan, and, at a later period, Jeremiah Smith,—not to mention several less known, but able men, who lived there, especially Benjamin Conner, who was a great party manager,—possessed an aggregate of talents and information, and a weight of character and influence, which could be equalled in no other part of the state. My father, though on friendly terms personally with all these men, was not one of their political circle. He gave great offence to some of them at the next session, 1791, by a bill which he introduced to tax state notes, in which they were largely interested. “Your influence,” said one of them to him, “may carry the bill through an ignorant House, as you can carry anything else there, but it will be rejected by the Senate.” “We shall see,” was the quiet reply. The bill accordingly passed the House, and was sent to the Senate, which, a few days after, sent a message to the House, informing them that the bill had been taken from their files, and could not be found. The House immediately passed it a second time, and sent it to the Senate, by whom it was enacted and became a law. It is a curious illustration of the kind of men sometimes found in public life, that a member of the House (not from Exeter) afterwards boasted that he had pocketed the first bill, and came near getting the second. It will readily be believed that he was a holder of state notes.

The winter session of 1791 was devoted chiefly to a revision of the statutes, with a view to a new edition of the laws. Among the bills introduced was one for the punishment of blasphemy. The committee had reported, in substance, the old law, but a Mr. Welman, who had been a preacher, moved as an amendment, that any person "convicted of speaking disrespectfully of any part of the Bible should have his tongue bored through with a hot iron." Sherburne seconded this motion in a vehement speech, declaring that he should have been better pleased if the reverend gentleman had proposed death as the penalty for so atrocious an offence. Sherburne labored under the imputation of being himself an unbeliever, and was, at any rate, free in his remarks on scripture, and his ridicule of the clergy. Whipping, branding, and other mutilations of the body were punishments then inflicted by the penal codes of most of the states, and the zeal of a Christian community saw nothing revolting in their application to the support of religious truth.

"I was aware," says my father, "of the strong prejudices of some of the members against me, on account of my religious tenets; and I doubted whether my opposition would not aid, rather than defeat, the proposed amendment. But perceiving, from the temper of the House, and the conduct of such men as Sherburne, that there was danger of its adoption, I could not remain silent. I rose, therefore, to oppose it; and, though deeply affected, and, at first, agitated with the

strength of my emotions, I delivered one of the best speeches I ever made on any subject. I endeavored to show that this amendment was not only barbarous, impolitic, and unjust, but contrary to the spirit of Christianity. For this purpose I made more than twenty appropriate quotations from the Bible ; contrasting the severity of the Jewish law, which was appealed to in support of sanguinary punishments, with the mildness of the Christian dispensation ; and closed with a strong appeal to the more liberal and generous feelings of the human heart."

The motion was rejected, though not by a large majority. This speech was spoken of, by those who heard it, as having been highly eloquent and impressive. It vindicated, on the broadest principles, the right and the duty of free inquiry, and denounced, with keen satire and indignant invective, the attempt to substitute authority in the place of reason, the branding-iron and the halter for the persuasive force of argument and the corrective influence of example, — combining, in one odious character, the hypocrite and the persecutor, the bigot and the unbeliever. Sherburne made no reply, and was not even present when the final vote was taken. He may have acted in this case, either in bad faith, with a view to popularity, or, as might be more charitably surmised, with the covert design to lead the House, by the very extravagance of his argument in support of the amendment, to its rejection. This latter supposition

is consistent with his usual finesse and indirection. But his own account of the matter, afterwards, was that his aim had been to force Plumer, whom he disliked, into the avowal of opinions which he knew would be unpopular. If this was his object, he was but partially successful. He brought out, indeed, his intended victim, but not to be sacrificed. Many, who voted for the amendment, were loud in their praises of the boldness and ability with which it was opposed; especially in contrast with the zeal of one who, after advocating the measure, refused to vote for it.\*

My father was, the next year (March, 1791), again elected to the House, and chosen Speaker of that body, "by a full vote." The session in June was a short one. That in November was held at Portsmouth. Its most important business was the incorporation of a bank. There was, at this time, no bank in New Hampshire, and but three state banks in the Union,—one in Philadelphia, one in New

\* It was of this same Sherburne that Judge Smith, reversing the apostolic injunction, said, "I hate him with a pure heart, fervently." The letters of Smith abound in sallies of this kind, amusing, at once, and sarcastic. This quaint humor seldom spared even his friends, and was not likely to fall with less severity on those whom he regarded as his enemies. "You will make," he says, in one of those letters, "the necessary allowances for my painting. I lay no claim to impartiality. I have not learned to blame measures without censuring men." This latter expression may be taken as the apology for some harsh judgments and uncharitable expressions, in which other men, besides Smith, occasionally indulge.

York, and one in Boston. My father's idea was that the Bank of the United States, then recently incorporated, would establish branches wherever the business of the country might require them, and that no more state banks ought to be created. He thought this general bank should be owned by the government, and managed as a public concern, which might, in this way, be made useful to the business of the country, valuable as a fiscal agent, and a source, under certain circumstances, of income to the treasury. With these views he opposed the incorporation of the New Hampshire Bank ; which, however, passed both Houses by small majorities, and became a law.

In the meantime, a convention having been called to revise the constitution of the state, he was elected, in August, a member of that body. The importance of the object drew together many of the ablest men of the state. The discussion, not of laws merely, but of constitutional provisions, and the fundamental principles of government, gave to the debates an interest not often felt in legislative proceedings. These debates, though long and able, were never published ; and the journal of the convention furnishes but an imperfect account of what was done, and still less by whom it was done. Even the yeas and nays, except in two or three cases, are not given. I am able, however, partly from the journal and other documents connected with it, and partly from my father's

papers, to give some account of the proceedings of this convention, and especially of his course in it. The convention met at Concord, September 7th, 1791. The old constitution was taken up by sections, and its provisions altered, or amended, and new clauses added, or old ones stricken out, at the will of the convention, till the whole was passed through in this manner. This occupied the first ten days of the session. Among the subjects in which he felt the strongest interest, and took an active part in debate, were the provisions on the subject of religion, the organization of the executive department, the judiciary, and the basis of representation in the House.

On the subject of religion, he proposed, instead of the former provisions, an article securing to every person in the state "the inestimable privilege of worshipping God in a manner agreeable to the dictates of his own conscience," and prohibiting the Legislature from compelling any person either to attend any place of public worship, or to pay taxes for the building of churches, or for the support of religious teachers, except in pursuance of his own free act and agreement. This amendment was wide enough to embrace the Roman Catholic on the one hand, and the Deist on the other. As a substitute for this article another was proposed, subjecting all the inhabitants of the state to a town tax for the support of the

clergyman whom the majority of the legal voters should, in each case, select as their pastor. The two opposite systems, the voluntary and the compulsory, were thus brought before the convention, and led to an animated debate on the subject. But neither party was strong enough to carry its proposed amendment; and the constitution of 1784 remains, in this particular, unaltered to the present time. The old system, in its rigor of universal compulsory taxation, though it had still its advocates, had lost much of its hold on the public favor; while the voluntary system had not yet acquired the support of any considerable portion of the religious community. The Quakers, few in numbers, were allowed to escape the tax for the support of religious teachers; the Baptists claimed the same exemption; the Methodists were, as yet, little known in the state;—but there were many persons who, belonging to no known denomination, could, in general, plead no scruples of conscience on the subject, yet were unwilling to be driven, by compulsion of law, into any religious fold. They wanted the appearance of going freely, if they went at all.

A motion, made by my father, to abolish the religious test for office-holders, who were required by the Constitution, to be “of the Protestant religion,” though at first rejected, was finally adopted by the Convention. It failed, however, with the people;



receiving a majority of the votes in its favor, but not the two-thirds necessary for its adoption. This test still forms a part of the Constitution. The convention of 1850 twice proposed, almost unanimously, its repeal; but the people refused, by very large majorities, to make the proposed alteration.

The mode in which the House of Representatives should be constituted was a matter of too great importance not to receive the early notice of the convention. The amendment proposed by my father was that the Legislature should divide the state into sixty districts, making the number of ratable polls in each as nearly equal as they could be made without dividing towns; and that each district should have one member. This would have been, substantially, a representation according to numbers. But the small towns were unwilling to give up their disproportionate representation; and many even of the large towns disliked the district system. The limited number of the districts was also an objection with those who preferred a numerous House as safer than a small one. The proposition was, therefore, rejected by a strong majority. The theory of republican equality requires, no doubt, this system of single districts, having an equal number of voters in each; and any departure from this is, so far, a departure from the representative principle, on which the whole government rests. The practice of town

representation is, however, coeval with the introduction of legislative assemblies in New England; and it is not strange that those little republics, the town municipalities, should have adhered tenaciously to their ancient privileges. The most, therefore, that could be expected, under these circumstances, was that the principle of equality should be as nearly attained as was consistent with preserving town representation. The attempt, in the convention of 1850, to give the small towns an advantage even greater in this respect than they before possessed, by lessening materially the representation of the large towns, led, more than any other cause, to the rejection by the people, not only of this, but of all the amendments proposed by that convention.

The constitution of 1776 had provided no Executive Department, separate from the Legislative. That of 1784 had organized such a department, but made it a portion of, and dependent on, the Legislature. The amendments under this head, moved by my father, and adopted by the convention, consisted in separating the governor from the Senate, and giving him a qualified negative on the Legislature. To secure a like independence in the Senate, he proposed to enlarge the number of senators to fifteen, one for every four representatives; and to make a plurality of votes alone necessary for a choice by the people, so that the Senate should not, in any case,

depend upon the House for the election of any of its members. The former motion failed in the convention, and the latter with the people.

In organizing anew the judiciary department, the plan supported by him had for its object, by lessening the number of the courts, and increasing their power, to secure a more speedy and less expensive administration of justice. The chances of protracted litigation, as the law then stood, were very great; and the consequent duration of law-suits was almost interminable. A suit, commenced before a Justice of the Peace, might be carried to the General Sessions, thence to the Common Pleas, thence to the Superior Court, and thence to the Legislature; to be by that body sent back to the Superior Court for final decision, with the further chance of a new trial on a writ of review. Add to this, that the verdict might be repeatedly set aside by the court, and that the disagreement of the jury often prevented any verdict being rendered; and it will readily be believed that suitors seldom got what the bill of rights promised them—"Justice freely, without being obliged to purchase it; completely, without denial; and promptly, without delay." The remedy for these evils, as finally proposed by the convention, was to empower the Legislature to abolish the Courts of Common Pleas and General Sessions, and to extend the jurisdiction of Justices of the Peace to sums not exceeding four

pounds. It was further proposed that no person should have a writ of review after the case had been decided against him twice by a jury, but that the court might, in other cases, grant a new trial where, in their opinion, justice had not been done at the former trials. Provision was also made for establishing equity jurisdiction, where an adequate remedy did not exist at common law. It was believed that this system would produce a more speedy despatch of business, and greatly reduce the costs of litigation. But its effect, in the first instance, would have been to throw twenty judges out of office, and to destroy, in a hundred other influential men, the hope of obtaining judgeships, to which, under the old system, they might have aspired. Those lawyers too, who, in organizing the courts, looked chiefly to their own interests, were not likely to favor a plan whose professed object was to diminish litigation. The only part of the scheme which met with no opposition, was that which extended the jurisdiction of justices of the peace. That rather numerous class of men found both their respectability and their emoluments increased by the proposed change, and they were not slow to appreciate its merits. The other proposed amendments were all rejected by the people. My father had been deeply impressed with the evils of the system which he thus sought to reform,—the litigious spirit which it engendered among the

people, its expense, its injustice, and its delays—"the law's delay"—which, from the time of Shakespeare, not to speak of the complaints of earlier days, had been the bane and the opprobrium of English jurisprudence, and which had been repeated here with such fatal facility of imitation.

After having, in this way, discussed the various amendments proposed, the convention appointed a committee, of which my father was one, to reduce them to form; and when this was effected, another committee was raised of two from each county, of which he was also a member, to take the whole subject into consideration, and report at a future meeting the amendments proper to be submitted to the people. The convention then adjourned to meet again in February of the next year. The committee of ten met repeatedly, and was long in coming to any definite conclusions.

"The chief labor and responsibility," says my father, "fell on me. Peabody, who was chairman, was disposed to perplex and embarrass, rather than aid the business. Atherton acted almost uniformly with Peabody. Freeman was opposed to all amendments. The infirmities of age made Payne inactive. Page was able and well disposed, but indolent and inattentive. The others gave me little trouble and no assistance. The task, thus thrown upon me, of controlling perverseness and rousing indolence into action was equally laborious and perplexing. But I felt my reputation concerned in bringing the

business to a successful issue ; and, by steady perseverance, I finally surmounted all the obstacles thrown in my way. After much discussion, and many changes and delays, we agreed upon amendments, which I reduced to form, and transcribing the whole constitution, introduced them into their proper places. On the meeting of the convention, February 8th, 1792, our report was assailed from various quarters ; but, Page and Atherton joining me in its defence, (for the latter no longer adhered to Peabody,) we succeeded, after long debates, from the 9th to the 23d, in carrying it through, though not without some important modifications. I was requested, by a vote of the convention, as all the amendments had been drawn by me, to arrange them in their proper places, and to assist the clerk in making a copy for publication."

The convention then adjourned to meet again in May, to receive the answer of the people to the proposed amendments. On coming together again, my father was appointed chairman of the committee to ascertain what amendments had been adopted, and what rejected ; and to report such further amendments as might be necessary to bring what remained of the old constitution into harmony with such provisions of the new as had been adopted by the people. This being done, the subject was again submitted to the people ; and the labors of the convention were closed by another short session in September. The constitution, thus formed, still remains in force without alteration, nor was there any

attempt at change for nearly half a century. Of this convention of 1791, he was the sole survivor, when that of 1850 met, and he did not live to see its close.

Though there were, in the convention of 1791, many older, and, at that time, more distinguished men than he, there was no one who took so active a part, or who had greater influence in that body. By his industry and perseverance, his energy and decision, and, above all, by the force and accuracy of his discriminating mind, he acquired, before the close of the convention, a weight and authority in that body which no other man possessed. "He was," said Judge Livermore to me, "by all odds, the most influential man in the convention; so much so, that those who disliked the result, called it Plumer's constitution, by way of insinuating that it was the work of one man, and not the collective wisdom of the whole assembly." From the journal of the convention, it appears that he was on nearly all the most important committees, and chairman of several of them. Several reports made by others, were drawn up by him. The amendments were all submitted to him for revision, and such of them as he favored received from him their most effective support. In the manuscript volume, which remains of the papers and documents relating to the convention, there is little, except the journal, which is not either in his handwriting, or in that of Jeremiah Smith—about three

times as much of the former as of the latter. Both these men were at this time comparatively young, ambitious of distinction, hard workers, prompt in action, and ready and willing alike with the tongue and the pen. They concurred for the most part in their general views of policy, though occasionally differing on questions of minor importance. But in concert or opposition, it was hard to say whether, aside from the strength of their arguments, the House most admired the broad humor, the Scotch-Irish drollery and shrewdness of Smith, or the keen retort, the ready resources, and strong practical common sense of Plumer. Smith, being at that time a member of Congress, was present only during the first session of ten days, and bore no part in the subsequent proceedings. Plumer was present to the end, and busy from the first. They had served together in the Legislature, as well as in the convention, and contracted a friendship for each other, which was long a source of mutual satisfaction, though not destined to survive the vicissitudes of policy and opinion, of feeling and interest, which, in the progress of events, placed them ultimately at the head of opposite parties in the state.

My father did not fail on this occasion of the usual accompaniment of eminence—the envy and abuse of rivals and opponents. The proposed amendments were assailed with great zeal and violence in news-



papers and in pamphlets; in which he came in for his full share of calumny and detraction, as their author and most prominent defender. To some of these strictures he replied in the public papers, but, with his usual reserve in this respect, he took no notice whatever of anything in them which was personal.

If the object of these attacks was indifferent to them, he was not so to the loss of time which the labors of the convention occasioned him. He had this year spent nine months out of the twelve, in the Legislature, of which he was speaker, in the convention, where his labors were unremitted, and in the courts of law, where his business was limited in amount only by his power of performance. This long absence from home was unpleasant to his feelings; and his fatigue of body and anxiety of mind seriously affected his health. He was confined, after his return from the convention, for some time, to his bed, by a severe attack of illness. "Finding," he says, "my constitution too feeble to support such incessant exertion, I resolved to abandon public life, and, confining myself to my profession, to enjoy, more than I had of late done, the comforts of home and family, the society of my friends, and the solace and improvement of my books. There was no office that I desired. I commenced public life with a resolution that I would attach myself to no party or faction,

but perform my duty, regardless of consequences to myself. I have thus far pursued this course; and I am not conscious of having done anything contrary to my judgment, at the time, of what was right and proper." It was with these feelings and intentions that he declined an election to the House, in 1792, and devoted himself, thenceforth, with fresh alacrity to the law. He had, as yet, acquired but little property, and he felt that the first claims on him were those of his family. "I do not care," he said, "how hard the path is, so it leads finally to independence. This I can and will achieve, if life is spared me a few years longer. Wealth I do not expect, nor, indeed, much desire. Competence is my aim; and I labor to make my wants few, that I may the more easily supply them."

But though, for the next six years, he held no public office, and devoted himself chiefly to his business as a lawyer, he lost none of his usual interest in the political events of the day. The hostility to Washington's administration, showing itself so strongly in opposition to the proclamation of neutrality, and to Jay's treaty, which, at one time, it seemed probable would be defeated, and the subsequent troubles under Adams, ending in the *quasi* war, as it was called, with France, warmly interested his feelings, and made him, in the end, more of a party politician than he had ever been before. He considered the

Federalists as essentially right, through the whole of these transactions, and the Republicans as blinded to the true interests of the country by their hostility to England, their admiration of France, and their devotion to party leaders who looked more to their own advancement than to the public good. He had, himself, no foreign partialities or predilections; having, he said, as little confidence in the good will of England as in the fraternal affection of France. "On reviewing these subjects, after a lapse of thirty years, I still think," he says, "that my opinions on these great national questions were correct. But, on reading copies of the letters I then wrote, I find them too censorious of those who differed with me, and too eulogistic of those with whom I then thought and acted. I have since learned to be more charitable to my opponents, and to confide less blindly in political associates."

Writing to his friend Smith (March 15, 1796), he says, "I might have been elected to the House, from this town, but I declined. My services would have borne no just proportion to the loss I should have sustained in my business; and the state of affairs here did not seem to demand the sacrifice." His feelings, however, became by degrees so much interested in the political action of the two great parties which then divided the country, that, when his townsmen elected him, in his absence, once more to

the Legislature (March, 1797), he could no longer resist the call; though his inclination, he says, no less than his interests, still bound him to his professional pursuits. In a letter to Mr. Gordon, then in Congress (May 29th, 1797), he writes:

“I am pleased with the President’s speech, which manifests, in strong terms, his love of country. This is what we most want; not love nor hatred towards other countries, but attachment to our own. I wait with anxiety for the answer of your House. I trust it will be in language worthy of freemen, firm and federal. Some think that, after the insults and injuries we have received from France, it would be dishonorable to attempt further negotiation. I am not of that opinion. I would not sacrifice the peace and prosperity of my country to resentments, however just, on the one hand, nor to the etiquette of state on the other. But if a minister is to be sent, I presume it will not be Madison or Gallatin,—we have suffered enough already, from such characters, in the person of Monroe. I hope you will not lay an embargo on our vessels, as I see is proposed by some. It would injure our commerce much, and our revenue more; or rather totally destroy both, without affecting materially the French. It is folly to talk of starving France. Let each merchant, judging for himself, embargo his own property, if he will, or hazard the danger of French piracy, if he prefers that course.”

On the meeting of the Legislature in June, my father was elected speaker. “The ballots being

counted," he says in a letter to Smith (June 11, 1797), "it appeared that John Goddard had three, Woodbury Langdon seven, Russell Freeman forty-one, and that I had seventy-three votes. Considering that Freeman was speaker last year, and had behaved well in the office, and that I had not been in the House for the last six years, and was personally known to but few of the members, I was, I confess, disappointed as well as gratified at the result. The governor has given us a moderate, but firm, federal speech. We shall have an answer, the sentiments and composition of which will not make you blush for New Hampshire. The mail going from this place (Concord) but once a week, is a sufficient excuse for my not writing you sooner." Between a mail once a week, and ten mails a day, which is about the present supply of Concord, there is a difference significant of the times, and the progress of events.\* Among other proofs how entirely the new speaker possessed the confidence of the House, it may be mentioned that they gave him the nomination of all committees, which had never, I believe, been done before. "The House," he says, "appointed every man whom I nominated; so that, in fact, I had the

\* My father's letters were usually ten or twelve days in reaching him from Philadelphia. There was then no post-office at Epping, and he sent nine miles to Exeter for his letters and papers, which, at a later period, were brought to him by a post-rider, once a week.

appointment of all the committees." The second session was held at Portsmouth, in November and December. Though it was a long and busy session, there was nothing done which need be here noticed. At its close, the speaker received the unanimous "thanks of the House, for his candid, impartial, and indefatigable services." Such votes are now matters of course; yet some inference may, perhaps, be drawn from the terms used as to the kind of service rendered. Industry and impartiality were qualities in which he was not likely to be deficient. He found, however, the labors of the chair too much for his health; and, in other respects, he did not much like his position. Though not debarred from taking part occasionally in debate, he felt that a seat on the floor would have been more pleasant to him, and at times, perhaps, more useful to the public.

He was, the next year (March, 1798,) re-elected to the House. His old law-instructor, Prentice, was chosen speaker. My father was told, by many of his friends, that his services on committees, and on the floor, would be more important than any he could render in the chair. This agreed so well with his own views and feelings on the subject, that he yielded readily to them, though aware that some, who used this civil language towards him, were not willing that the influence which he had acquired at the former session, should be increased by a second term

of service as speaker. He was chairman of the committee on the governor's speech, and drew up the answer of the House. He did the same at the November session. In both these papers, as well as in the Address to the President of the United States, the most entire confidence was expressed in the wisdom and integrity of the general government; and the people of the state were pledged to support its measures in defence of the rights and honor of the country, even should they terminate in a war with France. This was his own view of the case. He felt strongly, where the question was between his own and a foreign country; and was, on this occasion, equally indignant at "the insults and encroachments of the terrible republic," and angry with "those degenerate Americans, who take part with a foreign power against their own government." The Address was adopted with only four dissenting votes in the House, and passed the Senate unanimously.

A motion to increase the governor's pay, by an extra allowance, gave him occasion to express his views on the subject of salaries generally. He was opposed, upon principle, to the high payment of public officers. "The true rule is," he said, "to hold out such inducements, and such only, as will obtain, in any given case, the services required. In employments, such as clerkships, where there is much labor

and little honor, money is the chief, if not the only inducement; and of this, enough should be given to secure faithful and efficient officers. Let the labor be paid for, like other labor, at the market price. But in offices of higher character, other considerations come into the account. Not to speak of patriotism, or public spirit, there are other allowable, if not generous motives of action, such as ambition, the love of power, the thirst for distinction, and on these we may rely largely, to secure the services of the best men for offices of high honor and responsibility. Yet, as few are so wealthy as to be altogether above pecuniary considerations, there must be something in the way of emolument attached to offices, even of the highest power and distinction. But this should not be such as to make the pay, in any case, other than a secondary consideration. He is unworthy of any high office, who, in accepting it, thinks chiefly of the salary, and that salary is, for the same reason, too high, which induces men to regard office as desirable chiefly on account of it. Ambition brings men of noble feelings and generous natures into competition with one another for the public favor; but the love of money is felt chiefly by men of baser natures, who resort to ignoble means to obtain their objects, and who, when in office, promote men like themselves, looking only to the narrow purposes of party policy, or, lower still, to their own sordid interests. High salaries have thus



a tendency to bring into the lists men who are unfit for office, and who, but for the scent of prey, would leave the field to the competition of better and more deserving men. Pay those with money then, who can earn only money. But let honor, power, the consciousness of duty well performed, be the chief, as it must ever be the highest reward of meritorious exertions in the public service. It will be time enough to give more, when good men cannot be obtained on these terms. At present, there is no lack of candidates for political offices among our best and ablest men." On these grounds he was the advocate of low salaries for high offices. These opinions were not now advanced by him for any temporary purposes, but were adhered to, when he, himself, many years after, filled the office whose salary he now sought to keep within its former bounds.

A striking instance occurred, near the close of the session, of his moderation and command of temper under very trying circumstances. In the choice of a Senator to Congress, the Speaker, Prentice, was a candidate, but did not succeed, the old Senator Livermore being re-elected. Prentice imputed his failure to a severe attack made on him in a Concord newspaper. Believing this to have been written by his former pupil, he brought the subject before the House; and, after denouncing the writer as a miscreant and a viper, he turned suddenly on my father,

and, foaming with rage and stamping with his foot, defied him, with oaths and imprecations, to deny that he was the author of the infamous libel on his character. The House, astonished at this indecent ebullition, remained for some time silent, yet with looks of shame and rebuke, at the indignity thus inflicted, not less on itself than on one of its members, by the presiding officer of the assembly. All eyes were turned toward the object of this unprovoked attack, who, however, sat quietly in his place, unmoved amidst the tumult of passion, and not even condescending to inform the House, as he might truly have done, that he did not know the author, and had never seen the article in question till it appeared in print. Having vented his passion in this manner, without even the poor consolation of provoking a reply, the speaker left the chair and withdrew from the House. It afterwards appeared that the offensive article was written by a son of the successful candidate. This self-command under insult was not the effect of insensibility, but grew out of principle; and the anger which he could not but feel, was tempered, in this case, by pity for his old instructor, degrading himself in the vain attempt to disgrace his former pupil. By some, it may be thought that he ought to have made it what is absurdly called an affair of honor, or, if not, that he should have shown at least as much passion in repelling the attack in words, as

Prentice had shown in making it. But he deliberately rejected the use of all such means. The pistol, the club, and the fist were, in his opinion, not only unworthy of him, but he did not even hold it expedient to return railing for railing in this case. "Folly," he said, "is best answered by silence. If we do but respect ourselves, we need not much fear the disrespect of others." Of an ardent temperament, he made the government of his passions an object of unremitting care, and with such success, that he might be justly called a man of strong passions under strong control. What the House thought of "the miscreant and the viper" may be inferred from their unanimously choosing him speaker *pro tem.* in the absence of Prentice; from his being selected to preside over the convention, when both Houses met in that form, to discuss the proportion of taxes; and from his being put on not less than twenty-nine committees, and prevented from being on more by his claiming the benefit of the rule excusing any member from serving on more than three committees which had not already reported. When he met Prentice again, which was not till the next year, the latter was particularly attentive and even obsequious to him. He took such changes, whether of servility or of abuse, more quietly than most men are disposed to do. "Thrice happy he who tempers so his blood."

He was not, the next year, a member of the House. In a letter to Mr. Gordon (February, 1799), he says, "My attention to business, to company, to the General Court, and to the Courts of Law, has so much injured my health, that I am determined, in future, to work less and to live easier. I shall begin by relinquishing politics, or, in other words, not going this year to the Legislature. My professional labors are as much as, with my feeble health, I can well endure. At my time of life, with a young family, and not much property, I cannot retire from business; though I hope to do so before many years,—certainly as soon as I feel myself independent." His interest in public affairs was, however, too strong to allow him long to withdraw from public life. On the apparent return of better health, he was, the next year, (March, 1800), again elected to the House.

In April, he lost his mother. Her sudden and unexpected dissolution produced a sickness which confined him, for some days, to his bed. "She was," he says, "one of the best of mothers, and I loved her tenderly. No woman ever possessed a sweeter disposition, or discharged the duties of her station with more prudence, or greater fidelity."

In June, he was again so ill as to be unable to attend the Legislature till its second week, though urged to it by letters and messages from many of his

friends. The great question of the session was on the memorial of certain persons, asking for the establishment of another bank in Portsmouth. Soon after the establishment of the New Hampshire Bank, a company was formed in that town, which issued bills and transacted the ordinary business of a bank, though unincorporated. The old bank was in the hands of the Federalists; the new one, established by Langdon, Sherburne, Goddard, and other Republicans, was not a mere money concern, but was intended as an engine of political power. They had, the year before, applied for an act of incorporation, which was denied them; and a law was passed, making all such unincorporated banking associations unlawful. The state had, also, become a stockholder in the old bank. The March elections had turned mainly, in many places, on this bank question; and the Republicans had gained largely by the votes of men who regarded the old bank as a monopoly, the state subscription as a bribe, and the new bank as the only sure remedy for the financial evils of the times.

The question came up in the House on a memorial of the new bank, praying for the repeal of the prohibition on unincorporated banking associations, the law not having yet gone into operation. The Federalists were opposed to the request, chiefly on party grounds. My father had opposed the old bank on considerations of general policy, and was equally

opposed, on the same grounds, to the new. The committee had reported against the prayer of the memorialists; and, the question coming up for discussion immediately on his taking his seat, he moved its postponement till the afternoon, having left some notes, which he had made on the subject, at his lodgings. This motion, however, did not prevail; and Goddard, who was one of the petitioners, and the ablest debater on the Republican side, strenuously opposed the acceptance of the report. "After he sat down," says my father, "I addressed the House, vindicating the report of the committee, and assigning reasons why it should be accepted. Though weak from ill health, I occupied the floor more than an hour, and suffered no inconvenience for the want of my notes. I had the satisfaction of being listened to by the House, and the crowded galleries, with an attention which would have done honor to Dexter or Ames. The report was accepted." The session closed on Monday, June 16th. So much of the old strictness of opinion prevailed with the governor, that he refused to adjourn the Houses on Saturday, lest some of the members might travel towards their homes on the Sabbath.

In the selection of Representatives to Congress, he was urged by his friends to become a candidate, but refused on the ground of ill health. He was also proposed as a candidate for the Senate, but declined

in favor of his friend Sheafe, who was elected, though not by a large majority. The Federalists were evidently losing ground, and the new bank was gaining friends in every part of the state. This was sensibly felt, among other places, in Epping, where many of my father's old federal friends insisted on a pledge from him not to oppose the incorporation of the Union Bank. This he refused to give them, though they told him that without it he could not, and, some said, he should not, be re-elected. He told them at once that, if civilly asked to decline, he should have willingly done so; but that, since they had threatened him, he should put himself before the people for their verdict. He accordingly argued the question of the bank in the town meeting, and was re-elected (March, 1801), on the third trial, by a majority of three votes, against two popular candidates, a Federalist and a Republican, both friends of the Bank. When the House met at Hopkinton, in June, 1801, though the Federalists had a decided majority, John Langdon, the Republicans' bank candidate, wanted but two votes of being elected speaker. Prentice owed his majority of one to my father's reluctant vote. He used afterwards to say that this vote was the strongest proof he ever gave of the influence of party over his conduct; since Prentice had not only never made an apology for the gross insult he had, on a former occasion, offered

him, but was really much inferior as a presiding officer to Langdon. If, in this case, party spirit proved paramount to all other considerations, it came in the disguise of duty, and with a feeling of magnanimity, to which he was ever ready to yield. "A sense of personal injury never," he says, at another time, "influenced my public conduct; and I trust my life will not be protracted to receive so foul a stain." "In taking revenge," says Bacon, "a man is but equal to his enemy; in passing it over, he is superior." He now had cause to feel this. Prentice was grateful for the favor so unexpectedly received, and acknowledged his fault.

The proprietors of the Union Bank renewed, at this session, their application for an act of incorporation. The Federalists being divided in opinion as to the policy of granting this request, the bill passed the House, but was rejected by the Senate. My father opposed this application to the end, both on the ground originally taken by him against all state banks, and, more strongly, on the peculiar circumstances of the present case. At the next session, when he was not a member, they succeeded in obtaining a charter. The Republican party had, in the mean time, by the election of Mr. Jefferson to the Presidency, gained the ascendancy in the General Government; but the party in New Hampshire was still in the minority, and the accessions which it



received were owing more to this local question of the Union Bank than to any considerations of national policy. The system of paper money, except in the old form of state notes, which had everywhere proved disastrous to the public credit, was at that time a novelty in this state; and my father had early made up his mind against its introduction, and was still opposed to its extension. Yet there is little doubt that it has proved, on the whole, beneficial to the public interests; and, one bank being established, it was obvious that a second could not long be refused. For years the Union Bank confined its loans to its political friends, or to those whom it hoped to make such. The old bank was, probably, not more liberal in its policy. In the mean time, the system of state banks has spread in all directions, and has ultimately superseded the original design of a Bank of the United States, which, after agitating for years the public mind, and influencing deeply more than one presidential election, has become at length, in the words of a late distinguished New Hampshire statesman, "an obsolete idea."

The day after the adjournment, my father thus took leave of public life, in a letter (June 18, 1801,) to one of his friends. "As a legislator, I now bid you adieu. I have served eight years in the General Court, and one in the convention. I have spent no inconsiderable portion of the best years of

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my life in the public service; and may now, I trust, fairly claim my discharge, for the present, at least, if not forever." To another, he soon after wrote: "My attention to business for the last fifteen years has much impaired my health, and injured my constitution, which, at the best, was never strong. I am now, for a great portion of my time, a feeble invalid. This has induced me of late to think seriously of relinquishing, not only my public life, but my profession; and of devoting myself in future, wholly to my family, my friends, and my books. These have always been the great sources of my purest enjoyments, and I feel the need of no other."

In the preceding account, I have not attempted a full history of his services in the legislature; but have confined myself to such parts only as were important in themselves, or calculated to throw light on his character and opinions; without descending to the petty detail of personal jealousies and political intrigues, by which, in the warfare of party, most public men are so often assailed and annoyed, if not degraded and disgraced. One thing is particularly observable in this review,—the fearless independence of his conduct, from his first protest, "single and alone," against the justice trial bill, to his persevering opposition to the Union Bank, when many of the party leaders thought it prudent to desist. In several

cases, not here recorded, he came into bold, and sometimes sharp collision with some of the most influential Federalists of the state, on points where he thought them wrong. His support of party was the action of an independent mind, governed by its own sense of right; not the blind submission of a slave to the commands of a master. A letter written about this time, (June, 1801,) to his old acquaintance, Henry Dearborn, then Secretary of War, shows the feelings with which he regarded the new administration,—doubtful of its policy, but disposed to judge it fairly by its acts. “My political opinions do not accord with those of the President; but I am of no faction. I am neither attached to the English, nor prejudiced against the French. My sentiments are American; and my disposition is to support the administration of my country, so far as it appears to me not positively injurious to her best interests. I have seen things in Mr. Adams’s administration, which I could not approve; and I doubt not that I shall see measures adopted by Mr. Jefferson, that will meet with my cordial support.”

In September, while attending the Superior Court, at Dover, he was seized with so severe an attack of colic, that it was with difficulty he reached his home. Much as he had often before suffered, he was till then, he writes, “ignorant of extreme pain.” “My

suffering," he continues, "was so intense that I wished relief, though at the expense of life. My physician pronounced my case desperate, and said he could afford no relief. At this moment, I felt a strong inclination to drink cold water. The physician thought this hazardous; but, convinced that I could not long live in that condition, and absolving him from all blame in the case, I drank more than a pint of cold water at once. The severity of my pain immediately abated. I fell into a calm sleep for half an hour; and awoke with the feeling that the crisis of the disease was past. I was confined fourteen days to my chamber, and most of the time to my bed."

The determination, produced by the state of his health, to withdraw from public life, was, the next year, put to a test which he had not foreseen. After serving one session in the Senate of the United States, Mr. Sheafe resigned his seat in that body, and my father was chosen (June 17, 1802,) to fill the vacancy thus created. So little had this event been anticipated, that he says, in a letter to Smith, (June 23, 1802,) "I had not even a hint that Mr. Sheafe intended to resign, till I was informed of my own election. My friends studiously concealed it from me; no member of the Legislature had any reason to believe that I should accept; and it is certain, had I been consulted, I should have declined being a candi-

date." A seat in Congress, and especially in the Senate, is, on many accounts, so desirable, that, taking a lively interest in public affairs as he did, and not unambitious of distinction, it is not to be supposed that he felt averse to its honors, or indifferent to its attractions. He had, however, long regarded the practice of the law as his true vocation; and he looked with jealousy upon whatever interfered with his profession. He had, indeed, served eight years in the Legislature; but even this service he declined, when, from the state of his health, he found himself unequal to the claims upon him, at once, of the lawyer and the politician. He had more than once declined being a candidate for a seat in Congress, either in the House or Senate. Both these places were desirable; but it was, in his view, more desirable by the steady pursuit of his profession, now more than ever lucrative, to secure such an amount of property as should place him above want, and at ease with respect to his family, before the state of his health, already impaired, should render labor, once a pleasure, thenceforth a burden, or worse, an impossibility. Believing that public office would be always within his reach, or, if not, that there was little to regret in its absence, he felt no impatience to grasp at the first chances of success. "The state of my health," he wrote, "is bad; my wife is an

invalid; my children are young, and their education demands my attention. My pecuniary affairs are unsettled, and require much of my time to put them in order. The office of senator is, indeed, as high and honorable as my ambition ever prompted me to wish, and before I was elected to it, its honors and advantages seemed inviting; but, now that it has come, the privations to which it will subject me, diminish its value in my estimation, and, instead of flattering my pride, it excites in me fears that I shall not suitably perform its duties, and sustain the rank my country has assigned to me. On the whole, I have accepted the appointment with pleasure on some accounts, but, at the same time, with apprehension and regret." Mr. Webster, about three months before his death, informed me that he was at Concord at the time of this election, and well remembered the opinions expressed by the leading men there; that the new senator was by all odds the ablest man in the Federal party; that it was thought a great object to have secured his election, though it was doubted whether he would accept; that his superiority was acknowledged even by those who disliked him on account of some favorite measure of theirs which he had defeated; that the opposition nominated Nicholas Gilman, who, though not an avowed Republican, was less Federal than his brother, the Governor; but that

Mr. Plumer was elected on the first trial by a strong vote in both Houses.

Before proceeding to the scene of his service in the Senate, some account should be given of his professional life, during the fifteen years which had elapsed since his admission to the bar. This will form the subject of the next chapter.

## CHAPTER V.

### THE LAWYER.

MR. PLUMER was admitted to the bar in 1787. The state of the law was, at that time, very different from what it afterwards became. Under the colonial government, causes of importance were carried up, for decision in the last resort, to the governor and council, with the right, in certain cases—a right seldom claimed—of appeal to the king in council. As the executive functionaries were not generally lawyers, and the titular judges were often from other professions than the legal, they were not much influenced in their decisions by any known principles of established law. So much, indeed, was the result supposed to depend upon the favor or aversion of the court, that presents from suitors to the judges were not uncommon, nor, perhaps, unexpected. On one occasion, the chief justice, who was also a member of the council, is said to have inquired, rather impatiently, of his servant, what cattle those were that had waked him so unseasonably in the morning by their lowing under his window; and to have been somewhat mollified by the answer that they were a



. yoke of six-feet cattle, which Col. — had sent as a present to His Honor. "Has he?" said the judge; "I must look into his case,—it has been in court long enough." Under date of June 24, 1771, John Adams says, "Mr. Lowell, who practised much in New Hampshire, gave me an account of many strange judgments of the Superior Court at Portsmouth." He, however, here refers to erroneous, not to dishonest, opinions of the court,—erroneous, if judged by the principles of the English common law; but, forming, probably, a part of that system of local law to which the circumstances of the country and the genius of the people had given birth, and which had become binding by the gradual process of judicial decision, in the absence of statutory provisions.

The revolution brought with it new men, but no increase, in the first instance, of judicial science. From 1776 to 1782, Meshech Ware, who had studied theology, but did not preach, was chief justice of the state. His associates were Matthew Thornton, a physician, and John Wentworth, of Somersworth, who, though a lawyer, was not distinguished in the profession. Nathaniel Peabody and Jonathan Blanchard discharged, each during a part of the same period, the duties of attorney general, "in a manner satisfactory," we are told, "to the government, and advantageous to the people," though they were neither of them lawyers. From 1782 to 1790, Samuel Liver-

more was chief justice ; but, though bred to the law, he was not inclined to attach much importance to precedents, or to any merely systematic or technical rules of procedure. In a manuscript report, which I have, of one of his charges, I find him cautioning the jury against "paying too much attention to the niceties of the law, to the prejudice of justice,"—a caution of which juries do not ordinarily stand much in need. He was himself governed little by precedents. When once reminded of his own previous decision, in a similar case, he made no attempt to reconcile it with his present ruling; but dismissed at once the objection, with the familiar proverb, "Every tub must stand on its own bottom." If he paid little attention to the decisions of his own court, he was not likely to defer much to those of other tribunals. The question was once argued before him as to the authority of the English law reports; and he then decided that those of a date prior to the Declaration of Independence might be cited here, not as authorities, but as enlightening by their reasonings the judgment of the court; but that with those of a later date we had absolutely nothing to do. The salary of the chief justice at this time was six hundred dollars. Livermore was succeeded as chief justice by Josiah Bartlett, a physician. Of him we are told, that "when the law was with the plaintiff, and equity seemed to him to be on the other side, he was sure to pronounce

in favor of the latter." The object of the law being in all cases to do justice, as between the parties, that must, he said, be law which, in any given case, conduced to this end. It was, at any rate, better to be governed by a right principle, than by a wrong decision. The next chief justice, from 1790 to 1795, was John Pickering, who was a well-read lawyer. His successors have all been of the same profession; though one of them, Simeon Olcott, who held the office from 1795 to 1801, was more distinguished for the uprightness of his intentions than for his knowledge of law. "In his office of judge," says his biographer, "he manifested less regard for the letter of the law than for the spirit of equity." This is a mild way of saying what was often true, that he made the law to suit the case.

While such were the chief justices, it may well be imagined that the side judges were not lawyers. John Dudley, of Raymond, a trader and farmer, was judge from 1785 to 1797, Woodbury Langdon, a merchant of Portsmouth, at different periods, from 1782 to 1791, and Timothy Farrar, of New Ipswich, originally designed for the pulpit, from 1791 to 1803. Farrar had been appointed to the Common Pleas during the revolution, on which he procured a copy of Blackstone's commentaries, which he read, he said, "with more avidity than any girl ever read a novel." These judges were men of strong powers of mind, of

large acquaintance with business, and superior in talents and information generally to the second-rate lawyers, who, with the salaries then given to the judges, could alone have been induced to take seats on the bench. "There are now," said Judge Smith, writing under date of April, 1796, "two lawyers on the bench; but I think they are by no means the two best of the four. Farrar and Dudley, in my judgment, greatly overmatch them."

The half-learning of an ill-read lawyer of ordinary capacity was indeed no match for the keen sagacity, long experience, and strong common sense of such a judge as Dudley. This extraordinary man, who was for twelve years judge of the Superior Court, had not only no legal education, but little learning of any kind. But he had a discriminating mind, a retentive memory, a patience which no labor could tire, an integrity proof alike against threats and flattery, and a free elocution, rude indeed, and often uncouth, but bold, clear and expressive, with a warmth of honest feeling which it was not easy to resist. His ideas of law may be inferred from the conclusion of one of his charges to the jury, which I once heard my father repeat. It was somewhat in this style: "You have heard, gentlemen of the jury, what has been said in this case by the lawyers, the rascals! but no, I will not abuse them. It is their business to make a good case for their clients; they are paid for it; and they

have done in this case well enough. But you and I, gentlemen, have something else to consider. They talk of law. Why, gentlemen, it is not law that we want, but justice. They would govern us by the common law of England. Trust me, gentlemen, common sense is a much safer guide for us,—the common sense of Raymond, Epping, Exeter and the other towns which have sent us here to try this case between two of our neighbors. A clear head and an honest heart are worth more than all the law of all the lawyers. There was one good thing said at the bar. It was from one Shakspeare, an English player, I believe. No matter. It is good enough almost to be in the Bible. It is this: ‘Be just and fear not.’ That, gentlemen, is the law in this case, and law enough in any case. ‘Be just and fear not.’ It is our business to do justice between the parties, not by any quirks of the law out of Coke or Blackstone, books that I never read, and never will, but by common sense and common honesty as between man and man. That is our business; and the curse of God is upon us, if we neglect, or evade, or turn aside from it. And now, Mr. Sheriff, take out the jury; and you, Mr. Foreman, do not keep us waiting with idle talk, of which there has been too much already, about matters which have nothing to do with the merits of the case. Give us an honest verdict, of which, as plain, common sense men, you need not

be ashamed." I have made the judge speak good English, which he did not often do. "This 'ere plaintiff," and "that 'are defendant," "them lawyers," and "these 'ere witnesses," were expressions that fell often from his lips; yet, it was observed that, when warmed by his subject, his language, always forcible, became suddenly accurate and even elegant, so naturally is correctness, as well as eloquence, the result of clear thought and earnest feeling. It will not excite surprise that such a judge carried the jury with him. Indeed, when fairly under way, there was no stopping him. He trampled down and ran over everything that stood before him, and came out always first at the goal. He had been, from 1776 to 1784, during the whole period of the revolution, one of the committee of safety, the most efficient member of that most efficient of governments. Quick to feel and prompt to act, he was a resolute, strong-minded man, intent on doing substantial justice in every case, though often indifferent to the forms and requirements of law. "You may laugh," said Theophilus Parsons, who practised for many years in our courts, "at his law, and ridicule his language; but Dudley is, after all, the best judge I ever knew in New Hampshire." To have received this praise from Judge Parsons, Dudley must have been, on the whole, not ignorant of law, nor inattentive to its substantial requirements. "Justice," said Arthur Livermore,

speaking to me of Dudley, before whom he had himself practised, "was never better administered in New Hampshire, than when the judges knew very little of what we lawyers call law."

The scene of Dudley's charge, above quoted, was in Rockingham County. An incident which occurred in Cheshire County, will give some idea of the practice in that part of the State. At a court, held at Charlestown, soon after Jeremiah Mason was admitted to the bar, he put in a plea of demurrer, in a case in which Benjamin West was employed for the plaintiff. West, who was the oracle of the law in that region, told the court that he did not know much about demurrers. He rather doubted whether they formed any part of the New Hampshire law; at any rate, it was of evil example,—this attempt of his brother Mason, to introduce so unusual a mode of procedure here. The Chief Justice said, "Demurrers were, no doubt, an invention of the bar to prevent justice,—a part of the common law procedure, but he had always thought them a cursed cheat. They had not been much used in our courts." Farrar said "that the effect of a demurrer, if he understood it, was to take the case from the jury, to be decided on some question of law by the court." "If that is so," said Judge Dudley, "I am clean against it as being fatal to the rights of the jury." "But, your honor," said Mr. Mason, "there are, in this case, no

facts for the jury to find." "So much the better," said Dudley, "they will all the sooner bring in their verdict, if the facts are undisputed. Let me advise you, young man," he added, "not to come here with your new-fangled law; and above all, not to suppose that you know how to conduct a suit better than Mr. West. You must try your cases as others do, by the court and jury." The question had, by this time, become so intricate that the court continued it for advisement. How it was settled at the next term is not quite certain. Daniel Webster told me that, as he heard the story, the question on the demurrer, instead of being decided by the court, was put to the jury for trial. Another account is that West, now satisfied that his declaration was bad, moved for leave to amend, which the court granted, not without wonder that a man of such established reputation should be found at fault by this young man from over the river. In telling the story afterwards, Mason used to add, that, though he suffered at the time from the censure of the court for his presumption in introducing new practices, and pretending to know more than his seniors, his success in this case gave him confidence in himself; and that, if he had since acquired reputation as a lawyer, it was not a little owing to this trifling incident in his early practice. If the non-professional reader should, like Judge Dudley, inquire the meaning of a demurrer, he may,



perhaps, be satisfied by the definition given of it by Judge Harrington, of Vermont, another common-sense, but most unlearned, judge. "A demurrer," said Harrington, "why, a demurrer, if I understand it, is where, one party having told his story, the other party says, *what then?*"

The custom at this time was for all the judges present to charge the jury, at least in all important cases; and there was often as much difference in the law, as expounded from the bench, as there had been contradiction in the testimony on the stand, or in the inferences drawn from it by counsel at the bar. The result was that the verdict was an expression of the passions or the prejudices of the jury, and their good or ill will towards the parties litigant, quite as often as the application of any known rules of law to the case in hand. It was, perhaps, still oftener secured by the superior skill, talent or adroitness of the attorney employed by the winning party. Yet such justice was not unacceptable to the people, who regarded good sense and upright intentions as of more importance than mere book-learning, which might be possessed by men ignorant of human nature and unacquainted with the business of life. As, however, the science of jurisprudence came to be more regarded, and precedent and authority took the place of vague notions of right and equity, these unprofessional judges were found unequal to their

places. Richard Evans, appointed in 1809, and removed in 1813, was the last judge, not a lawyer, who sat on the bench of the Superior Court. This practice of making judges of men who were not lawyers was general in New England. It has been stated, I know not upon what authority, that Paul Dudley was the first person, regularly bred to the law, who ever sat on the bench in Massachusetts. He was appointed in 1718, eighty-eight years after the first settlement of Boston.

When my father came to the bar, though the lawyers of the whole State did not exceed thirty in number, (I find in the Register of 1788 the names of twenty-nine lawyers,) many of them were able and distinguished men. The most prominent in Rockingham and Strafford Counties, where he chiefly practised, were John Pickering, afterwards Chief Justice and Judge of the District Court; John Sullivan, Major-General in the army of the revolution, Attorney-General, President of the State and District Judge; John Prentice, Speaker of the House and Attorney-General; John S. Sherburne, member of Congress and District Judge; William K. Atkinson, Attorney-General and Judge of Probate; Jonathan M. Sewall, the poet; William Parker, Register, and, I think, Judge of Probate; Oliver Peabody, Treasurer, Sheriff, Judge of Probate and Judge of the Common Pleas; and Daniel Humphries, preacher, poet, gram-

marian and District-Attorney. Edward St. Loe Livermore and Arthur Livermore, both of them afterwards Judges of the Superior Court, became somewhat later members of the Rockingham bar, the one established at Portsmouth, the other at Chester. Joshua Atherton, who was Attorney-General from 1793 to 1801, also practised in our courts. Besides these, there were some distinguished lawyers, residents in other States, who practised occasionally here, such as Bradbury of Portland, Dexter of Boston, and Parsons of Newburyport. It was in this school of jurists and politicians that the character of the young lawyer was first formed, and his powers developed and put to proof, in alternate co-operation and contest with these leaders and sages of the law. Not to fall behind, in the struggle with them, was no mean distinction; to surpass the ablest of them was what he did not presume to hope.

The division of professional labor, which prevails in older and richer States, was then little known in New Hampshire. The lawyer was supposed to be familiar with every branch of his profession, as attorney, counsellor, conveyancer, advocate, and to be equally expert in the drafting of instruments, in instituting suits, in special pleading, and in advocating cases before the court and jury. Agents out of court, of whom there are now so many, whose business it is to procure testimony, and bring the witnesses on to

the stand, were then little known. The lawyer in immediate contact with his client, who was often ignorant of what he wanted, had to do everything of this sort himself; to prepare the testimony out of court, to examine the witnesses in court, and to argue both the law and the facts to the judges and to the jury. All this was to be done by one person, who had, at the same time, a multitude of other cases on hand; for it was not the practice to employ more than one lawyer on a side, except occasionally in important cases. The promptness, energy and decision, the learning, the labor, and the versatility of talent, which such a course of practice required, tasked, to the utmost, the powers both of body and mind of the much-employed and over-worked lawyer. For such labor my father was prepared by his general habits of order, industry and perseverance in whatever he undertook. Benjamin Thompson, for many years Clerk of the Common Pleas in Strafford County, speaking of these traits of his character, said that he was the most industrious man he had ever known; that, after laboring all day in court, and, at night, with his clients, in his chamber, till every body else had retired to rest, he would turn with fresh alacrity to the reading of any new book which chanced to fall in his way, and continue at his study, unconscious of the lapse of time, till the burning out of his candle reminded him of his need of

repose ; that he would be up again early in the morning, bright and cheerful, busy with his clients, prompt at court, attentive to whatever was said or done there, and ready whenever his cases were called for trial. Business, thus assiduously followed, left him little time that he could call his own. Besides the regular terms of the court, (six in each county, for the Common Pleas sat four times a year,) there were Probate Courts, references and arbitrations, hearings before commissioners, the taking of depositions, and justice trials, which carried him almost daily from home. It is not, therefore, strange that with his fondness for books, he came to read on horseback, in taverns, and, when from home, in bed.

To meet his various engagements, often required the exertion of uncommon activity of body as well as of mind. No external circumstance of labor or inconvenience deterred him. Neither wind nor rain, heat nor cold, prevented his presence at the appointed time and place, or, if absent, it was through no fault or neglect of his. Many instances of his accustomed punctuality, and of the celerity of his movements might be mentioned. One, which my mother used to relate, may suffice. While attending court at Exeter, he had engaged to meet a client at his house, at seven o'clock, one warm summer evening. The man was on the spot at the time, and, as the clock struck seven, he rallied my mother on her husband's

want of punctuality. She paused a moment, and then exclaimed, "Hark, I hear him coming now." They hastened to the door, and heard the clattering hoofs of his powerful black horse as he swept over the bridge on the Exeter road, a mile from where they stood. The sounds waxed louder as they listened; and in a moment, he dismounted at their side; apologizing for being late, by stating that the inn-keeper had neglected to bring his horse to the court-house door at the time appointed. He had ridden nearly nine miles in thirty-six minutes; and was ready to enter, without delay, on the business which his client had well-nigh forgotten in surprise at his sudden appearance.

An instance of equal activity, in the depth of winter, he used himself to relate. It was a Monday forenoon, in the winter term of the Superior Court at Dover. There had been a heavy snow storm, and the weather was cold and boisterous. On the opening of the court, Mr. Atkinson moved a postponement of one of his causes, on the ground that his client could not attend in this inclement weather. Judge Olcott, who listened to him with some impatience, at length exclaimed, "Stop, Mr. Atkinson, here is our brother Plumer coming into court, after having travelled eighteen or twenty miles this morning in the storm; and your client, who lives within two miles of the court-house, cannot venture out. Crier, call the

plaintiff." As my father entered the bar, flushed with the cold, and shaking the snow from his locks, Atkinson resumed his seat, and his client was defaulted. My father good-naturedly moved the court to take off the default; saying, that though he had come from Epping that morning, as indeed he was bound to do, the weather was really very rough, and hardly fit to be out in. "Well, well," said the Judge, "we know that you are no rule, Mr. Plumer, for others in such cases; so brother Atkinson may have till to-morrow to bring in his witnesses. The clerk will take off the default."

Punctuality was with him not only a habit, but a duty; and while making large allowance for the want of it in others, he never subjected those with whom he had business to the evils or the vexations of unnecessary delay. Railroads were then unknown, stages not in use where he had to travel, and the common roads were often well-nigh impassable. Many were the journeys which he performed, through forests, by short cuts and bridle paths, which led through quagmires and over log-bridges, where mere skill seemed inadequate, without that good luck which the skilful seldom want, to escape from foundering in the mud or falling into the stream. On one such occasion, in returning from the court at Rochester, through an extensive oak forest in Barrington, he fell from his horse in a fit of vertigo, to

which he was occasionally liable, and on coming to himself, he found his horse standing by him, with a huge black snake at his side; the horse watching the motions of the reptile, which had probably been attracted by the sight of a man lying apparently dead on the ground. He mounted his horse with some difficulty, and soon reached the hospitable mansion of his friend, Judge Hale, where he passed the night. Such adventures are not unusual in new countries; but, with our present modes of travelling, they are not likely often to occur to New Hampshire lawyers.

With these preliminary statements and remarks, we may now introduce some extracts from his letters and journals—arranged in the order of their dates—which throw light on this portion of his history. Under date of 1785 he says: “Inclination, not less than the state of my finances, has made me adopt a system of strict economy, both of time and money. I studiously avoid all expensive and unnecessary company. The one I cannot afford; the other encroaches upon time which I can better employ.” This extract well describes what was, at this period, his usual course of life. Economical in his mode of living, and studious in his habits, he sought health in change of occupation, rather than in relaxation and amusement; and he preferred, in the intervals of necessary labor, the society of his books to any living companions with whom he could then asso-



ciate. These unsocial habits wore off, as business brought him into connection with men, often his equals, sometimes his superiors, with whom he felt that conversation was not that loss of time or dissipation of thought, which he had often found it. It was probably this excessive devotion to study, with little exercise and no amusement, which produced the frequent illnesses, of which he complains in his letters of this period. In July, 1786, he had a severe attack of the bilious colic, which threatened, for a time, his life. "I bore," he says, "the extreme pain with fortitude, and the apparent approach of death did not alarm me. I felt troubled indeed and as it were disappointed; for I seemed to myself not to have done what I was sent into the world to do, and thence there arose, even at the worst, a feeling that I should recover, and go about my work again."

In a letter to his former fellow-student, William Coleman, under date of May 31st, 1786, he says, "The aspect of public affairs in this state is gloomy. Money is scarce ; business dull, and our feeble government is unhinged. Yet, even in these degenerate days, our courts of law are firm, and dare to be honest. If our elective government is to be long supported, it will owe its existence merely to the wisdom and the independence of the judiciary." The high value thus attached to an independent judiciary marks

the conservative character of his mind at this time. The weakness of the state authorities, and the discontents of the people, ending soon after in open insurrection, made him anxious for a strong general government, and gave him what were afterwards called high Federal notions on this subject. "The people," he said, "mean well, and will do right if they are not misled; but I doubt their ability to resist the arts of demagogues, and I fear that wisdom will too often come to us in the unwelcome form of bitter experience; in other words, in the shape of evils felt and not avoided."

He entered upon his profession with a high sense of its importance, and a fixed determination to discharge faithfully all its duties. Writing to a friend soon after his admission to the bar, he says:—

"The lawyer's oath contains nothing which I do not intend religiously to observe. It is in substance, that I will do no injustice, nor consent to any; will not institute or aid any false or unlawful suit; nor delay any man for lucre or malice; but will conduct in all respects according to my best knowledge, with all fidelity to the court and to my client. This is promising much, but not more than I intend to do. It shows that its authors placed high the standard of professional duty. How different from the base idea, common among us, that it is the lawyer's business to circumvent and overreach, to flatter and deceive both court and jury for the benefit of his client; and above all to stir up suits, and promote litigation, that he

may thereby make money for himself! Does this popular notion represent truly the character of our lawyers? If so, God forbid that I should be one of them. I have already left one profession because, with my views, I could not honestly remain in it; and I will not submit to defilement in any other. But it is not necessary. To meet adequately the requirements of his vocation, the lawyer must have the virtues, as well as the talents, which go to make the wise and perfect man. It shall be my study then to *press forward towards the mark, for the prize of this high calling, however far I may fall below it.*"

In the winter of 1787-8, he methodized and transcribed into a book, with an alphabetical arrangement, his legal notes and extracts; which he afterwards enlarged, and from time to time corrected, as his knowledge increased, till the whole formed a very tolerable outline of law and practice,—a *vade mecum*, which he carried with him to court, and often found useful as an epitome of principles, and an index to authorities. There were, at this time, no reports of judicial decisions, published by authority, in any of the states. Of such decisions only eight volumes, so far as I have been able to ascertain, were printed before 1802, when he ceased regularly to attend the courts. Five hundred such volumes, perhaps a thousand, now offer the rich treasure of their abundant learning and research to the labor, if I may not rather say, to the despair, of the American student. He also about this time copied from the manuscripts of Theophilus

Parsons brief notes of cases decided in Massachusetts, and added to them, from time to time, others decided in our own courts. This practice of reporting cases he continued for some years; but, as his business increased, he lacked the time, or perhaps the patience, necessary to continue these reports.

Under date of 1788, he writes, "My practice as a lawyer increases. My habit, early formed, of not deferring till to-morrow what can be done to-day, renders business easy to me. I manage my client's case as if it were my own, never consenting to continuances for the sake of augmenting costs; but obtaining judgments as soon as I can. When money collected is once in my hands, no man has to call for it a second time. This, you may say, is a matter of course. Not so. When money is worth ten or twelve per cent., it is often harder to get it from the attorney than it was from the original debtor. As to my fees, they are moderate, never exceeding the lowest charges for the same services by others."

In 1789, he was admitted to practice at the Superior Court. Before this, his friend Parsons had taken care of his cases, when carried up from the Common Pleas. From this time his business gradually, but steadily increased. He was now evidently a growing man, and he had none of the impatience which makes so many uneasy that they do not grow faster. It was, the next year, proposed to make

him Judge of Probate for Rockingham county. In a letter to his friend Smith, July 6, 1790, he says, "I once thought I should be glad of this office. When contemplated at a distance, it pleased me; but, on a closer examination, I dislike it. My ambition soars higher. There are but few offices I wish to hold, and these I cannot, at present, obtain." His business had, by this time, become so considerable that we find him complaining that it left him "little time for reading anything but law, and not enough even of that."

Under the colonial government an appeal was allowed from the ordinary tribunals, in certain cases, to the governor and council. During the revolution, the same practice of going beyond the courts of law for redress was continued; and the form which it took, under the constitution of 1784, was that of a special act of the Legislature, "restoring the party to his law," as it was called, that is, giving him a new trial in the Superior Court, after his case had come to its final decision in the ordinary course of law. Against such an act, in favor of a person to whom it was thus attempted to give a new trial, in the case *McClary vs. Gilman*, my father contended that the law was unconstitutional, and therefore void, on the ground, that, if it reversed the former judgment, it was repugnant to the bill of rights, and the constitution of the state; and that, if it did not reverse it, the court

could not render another judgment in the same case, while the first remained in force. At the September term, 1791, (Pickering, Chief Justice; Dudley, Olcott and Farrar, Justices,) the court sustained the objection, dismissed the action, and ordered execution on the former judgment. This, though not the first, was by far the most important instance in which the court had pronounced a law of the state unconstitutional. It was the exercise of a high and delicate act of power, which struck, in this case, at a long established and cherished usage. The supposed interest of lawyers in the multiplication of suits, the litigious spirit of parties, ever eager to grasp at new chances of success, and the love of power, natural to legislative bodies, all combined to render this irregularity in the administration of justice not unacceptable to the public. But though it required some courage in the attorney to take the exception, and more, perhaps, in the court to sustain it, the good sense of the people acquiesced in the decision. Some clamor was indeed made against the judges, as putting themselves above the Legislature; and attempts were made at subsequent sessions, generally without success, by disappointed litigants to get laws passed granting them new trials. In 1817, such a law was passed; but the Superior Court, in an elaborate opinion, pronounced it unconstitutional. No attempt has been since made to reverse this decision. The

true interests of the public were greatly promoted by this decision of 1791; and the law itself made, on that occasion, an important step in the progressive improvement, which, for the good of all parties, it so much needed. It would be interesting to know by what arguments this decision was advocated at the bar, and sustained on the bench. But beyond the brief notice of it among my father's papers, I am not aware that any report of the case is to be found.

Other points of law, more or less important, which were first decided by our courts on his motion, might be here stated; but some of them were technical merely, or without general interest; and others I could state only from memory, without reference to time or place, or the names of the parties, and might, perhaps, give them incorrectly. His share in settling such cases, during the fifteen years of his active practice, was not inconsiderable. From 1797, Smith and Mason brought largely the weight of their learning and their talents into the same worthy service. When five years later, Smith was advanced to the bench, he gave the authority of judicial decisions to opinions elaborated at the bar, by minds equal, and in some cases, superior to his own; while Mason, during the forty years of his practice in the New Hampshire courts, brought to the development of legal principles, and the defining of judicial practice, the resources of a mind never surpassed, and equalled

only, and, in its law merely, not equalled, by the preponderating intellect of Webster; who, a few years later, gave the full force of his youthful zeal and vigor to the same generous and ennobling tasks. Their united labors, aided by many other able lawyers—able but inferior to these—gave to New Hampshire a body of judicial decisions, of which, as well as of the judges by whom they were pronounced, she may be justly proud. Under their influence the law worked its way gradually out of the uncertainty and confusion,—I wish I could say out of the procrastination and delay,—in which I have described it as involved at an earlier period. The date at which we have arrived, was, however, but the commencement of this great reform. We proceed with our extracts.

The state of my father's health at this time, (February, 1792,) compelled him to abandon all business which he could well avoid. At the Superior Court at Portsmouth, "I was," he says, "too sick to transact business; and found it difficult to return home to my family. In this low state I remained for several weeks. The General Court, the courts of law, and the Convention, coming so close upon each other, were too much for me." Under date of February 5, 1793, he says, "I am here attending the Common Pleas; and have more business than I can well despatch. It increases upon me daily." Towards the end of the year, he says, "I attended the Legislature



several days, during each of their sessions, and advocated more cases before them than any other lawyer." Though the practice of restoring men to their law, by acts of special legislation, no longer prevailed, public hearings, either before large committees, or before the House, and sometimes before both branches, were still not uncommon. The subjects thus discussed, often involved questions of law, politics and political economy, forming the most attractive and important business of the session. This legislative practice, in which he was largely engaged, kept up his acquaintance with public men, and gave him much influence on the course of public events, even when he held no office. In 1794, he says, "Most of my time was devoted to business. I attended the Legislature only to advocate causes that were depending before them."

In April, 1794, he writes: "The fatigues of court are forgotten when in the company of that incomparable genius, Theophilus Parsons. The more I see and know of this great lawyer, the more I esteem and admire him." Parsons, who was the most learned lawyer of his time, had long practised in our courts. My father was employed, either with, or against him, in many of his cases. When on the same side, he usually argued the facts to the jury, and Parsons the law to the court. Parsons had the reputation with juries of being cunning, of knowing too much, and therefore not to be trusted by them. This suspicion

impaired his influence with the jury; and even the court admired his learning and his ingenuity more than they followed his law. "It was here," says my father, "that I formed and cultivated an acquaintance with him, and received from him more useful information, not only on legal, but on almost all other subjects, than from any other man." Of the "other subjects" on which he conversed with Parsons, one was religion. With both of them morals and theology were favorite subjects of inquiry; and their love of these was equalled only by their devotion to the law. In these respects their tastes were congenial; and their pleasure in such discussions was mutual and long continued. Judge Story speaks of Parsons as a "man who belonged not to a generation, but to a century—the greatest lawyer of his time." My father, among other reminiscences of him, used to mention an instance of his extraordinary strength of memory. He had argued, at a previous term, a case in the Circuit Court, at Portsmouth, without obtaining a verdict. It now came on again for trial in his absence; and the counsel for the defendant was closing his argument, when Parsons unexpectedly entered the court. His client insisted that he should address the jury in reply, though he had heard no part of the trial. After inquiring of his colleague as to the new testimony introduced, and finding that it was immaterial, he rose, and, to the astonishment of

both court and jury, entered at once into all the details of the case ; stated minutely the testimony on both sides, including that now first introduced ; and, more successful than before, won a verdict for his client. It may help to explain his power of recollection in this case, without lessening our surprise at his general practice, to be told that, in jury trials, he took no notes of the testimony, and that his recollection was so accurate, and his statements from it so impartial, as to be often appealed to, even by the opposing counsel. In questions of law, he would refer to book, chapter and section ; and would quote from memory passages so apposite to the case in hand, that his opponents were sometimes tempted to suspect that he made the law, which he pretended to recite. The book, however, when consulted, showed that he had drawn on his memory, and not on his invention, for citations so much in point. "It is not remembered," says William Sullivan, "that he ever used a brief ; his memory was his brief, and the best one a lawyer can use."

Under date of 1795, I find only this entry to transcribe. "This year, like the last, I was almost entirely engaged in attending my professional business. I spent no portion of my time in idleness ; none in the pursuits of pleasure. The hours not devoted to business or to sleep, were occupied in reading and studying, principally law, history, and

politics." February 4, 1796, he says, "For this fortnight I have not been able to command a leisure moment. I am now at Portsmouth, attending the Common Pleas, quite jaded out with the drudgery of its servile business. The court sat late this evening. It is now twelve o'clock, and my exhausted spirits require the aid of sleep." March 25, 1796, he says, "The Superior Court failed to sit at Dover for want of a quorum. The Chief Justice, consulting an almanac, instead of the law, to know when his court was to meet, came a week after the time. This is his second failure, and both for the same cause. You may believe that clients complain of the delay, lawyers no less of their loss of fees; and the people, of both court and bar; though I do not well see how the latter is to blame in this case." Under date of 1797, he says, "In March and February, I attended the Superior Court, two weeks at Portsmouth, and five at Dover, in succession. At both these courts I was constantly engaged at the bar, during the two sessions of each day; and in the morning from light till breakfast, and in the evening till twelve o'clock at night, either in conversing with my clients, or in preparing their cases for trial. In these seven weeks I felt no fatigue; and enjoyed each night six hours of sound repose. But the very evening the business closed, exertion being no longer necessary, my mind relaxed; and I was so much fatigued, that for several

successive nights I was unable to obtain quiet sleep." There is no doubt that this severe labor, and these midnight vigils bore hard upon his health, though his spirits never failed, nor did his resolution falter, while there was occasion for exertion, or opportunity for improvement.

For the most strenuous exertions there was now more than usual opportunity and occasion. In July of this year, Jeremiah Smith came to reside at Exeter, where George Sullivan was already in the practice, and in the following autumn, Jeremiah Mason removed to Portsmouth; and they both entered at once on the practice of law in this county. Smith was five months younger than my father; Mason nearly nine years younger. They were both in the vigor of manhood, and the pride of conscious power; Smith, with an industry which set no bounds to its labors; and Mason, with powers of mind, a capacity for toil, a devotion to business, and an intenseness of purpose, which made him ultimately the most accomplished common-law lawyer, that this country has yet produced. If to Plumer, Smith, Mason, and Sullivan, we add the name of Webster, who came to Portsmouth a few years later, it will readily be believed that the Rockingham bar was well denominated, at this period of its greatest strength, "the arena of giants." It, indeed, often witnessed the strife of Titans; weak men did not

minge in it; strong men felt the need of all their strength. If, to change the comparison, my father, from age or character, was the Nestor or Ulysses of this assembly; Smith, the Menelaus, with a touch of the Thersites humor; and Mason, the Ajax or Agamemnon, towering head and shoulders above the rest; the youthful vigor of Webster, in this first exhibition of his unrivalled power, "the flash and outbreak of a fiery mind," stamped itself boldly on all beholders, as the Achilles, *impiger, iracundus, inexorabilis, acer*, of the scene. To strangers, such language may seem extravagant. Perhaps it is so. But one who witnessed, always with admiration, sometimes with awe and reverence, the encounters of these extraordinary men, cannot speak of them in language appropriate to the ordinary routine of practice in an obscure country court. Judge Story, who occasionally practised before our judges, listened, when he came afterwards to preside here, in the Circuit Court, with undissembled admiration and delight, to what he called "the vast law learning, and the prodigious intellectual power of the New Hampshire bar." That bar, though destined to lose some of its brightest ornaments, was not without its strong men, (witness Woodbury and Bartlett,) even after Plumer and Smith had withdrawn from the practice, and Mason and Webster had gone to assume, with the easy confidence of assured success, the same marked superiority,

in the metropolis of New England, which they had held in this original seat of their power. Neither Mason nor Webster ever forgot their early associates; and the latter, after practising in the first courts of the Union, told Choate that "he never met any where else abler men than some of those who initiated him in the rugged discipline of the New Hampshire courts."

In anticipation of Smith's coming to Exeter, my father wrote to him, under date of January 12, 1797.

"I am glad you have eventually fixed upon Exeter as the place of your permanent residence. I now calculate upon having a real friend near me; which I consider a prize of inestimable value. I am sensible you will take numbers of my clients, and of course lessen my business. I am perfectly willing you should. It has been for some time my fixed determination to relinquish the practice of law within four years of this time. If no misfortune should overtake me, the income of my property will, by that time, afford me and my family a decent support. I am not ambitious of acquiring a fortune. I am now harassed and fatigued with business, in attending courts and references, and taking care of my own private affairs. I have no time to write you, except what I take from my pillow."

March 23d, 1797. "I have just returned from Dover, after seven weeks constant attendance on the court in two counties. The court is now more respectable than the salaries of the judges would warrant us to expect. But I fear, if the Legis-

lature do not, at the next session, raise the salaries, the judges will resign. My townsmen in my absence have elected me a member of the House. I hope I shall have the pleasure of seeing you in the second week of our session. Previously to my election, I was of counsel, in some public hearings assigned for that week. I shall take the liberty to recommend my clients to your patronage."

Writing to William Gordon, (June 18, 1797,) he says, "We have passed a vote, 73 to 62, giving the chief justice \$850, and the puisne justices \$800 each. It is not enough; but is as much as we can obtain. I am for giving such salaries as will secure the right men, not a cent more, nor a mill less. You may call such salaries high, or low; I call them adequate; that is, sufficient for the purpose for which they are given. If we can get the best men, (nothing else ought to satisfy us,) for the old salaries, \$500 a year, so be it; if for not less than a thousand or fifteen hundred, I would give the larger sum just as freely as the smaller." In 1792, the salary of the chief justice was \$600; in 1797, it was raised to \$850, and in 1802, to \$1,000 per annum. His letters and those of his correspondents at this period, are full of complaints on this subject. Lawyers fit for the office were unwilling to leave a lucrative practice at the bar for a seat, however honorable, on the bench; while the latter was so inadequately remunerated. Early the next year, two vacancies occurring on the bench of the



Superior Court, Paine Wingate and ——— were appointed to fill them. Wingate had been senator in Congress, and was by profession a clergyman. ———, though a lawyer, did not hold a high rank in the profession. The appointment was considered an unfortunate one; and my father was selected by his brethren of the bar to tell the new judge that he ought not to accept it. This ungracious task he performed so successfully that the judge sent back his commission to the Governor, and even thanked his adviser for his unwelcome counsel. "When I left him," says my father, "he seemed troubled, but not offended; mortified at the truths I had told him, but conscious that they were truths; and told to him, though plainly, in no unfriendly temper." In reply to a letter, giving an account of this interview, Arthur Livermore, afterwards Chief Justice, says, "My sentiments respecting ———, accord perfectly with yours. To express them to him as forcibly and as freely as you did, would require more courage, I fear, than I possess." He adds, in a strain quite characteristic of the man, "What few of us there are here, (Holderness,) are perfectly Federal, ready to sign addresses, pay taxes, fight the French, or do any thing else that is clever." Those earnest old men, (young men then), were alternately lawyers and politicians; equally zealous in the one case, and active in the other.

To William Gordon, he writes, (February 6, 1798,) "Late, very late, last night, I borrowed, from the sleepy god, time to write thus far. I am now, late in the evening, at my lodgings again, relieved from my teasing clients." To the same, (April 2d,) "What a court we have to judge of special pleadings, and decide nice and abstruse questions of law! The Chief Justice is incapable of close reasoning. Farrar is a better judge, but is not a lawyer. Wingate, who has just been appointed, has talents too; but a clergyman, put upon the bench at sixty, is too old to enter with success on a new career. These are your eight hundred dollar judges, worth, no doubt, what they cost; but is not the state entitled to better men; and can she have them while she refuses to pay for their services?" He afterwards wrote "Wingate was a man of integrity, of a strong mind, and a retentive memory, but ignorant of law. In trying causes, he looked to what he called the equity of the case; not what the law calls equity; but his own individual opinion of what was right as between the parties before him. The court and jury became, under this notion of equity, not a legal tribunal, but a board of arbitrators who made the law for the case, rather than applied to it a law already made. Their law came, in the phrase of Bacon, from their own brains, not from other men's books. Yet, it cannot be denied that Dudley, Farrar, and Wingate were, on

the whole, better judges, because abler men, than Newcomb, Olcott, and Claggett, though the latter were lawyers by profession." "Farrar," said Judge Smith, "is more of a lawyer than Olcott, and more of a judge than Newcomb." Their decisions were often just, and even legal, when the reasons which they gave for them were such as no lawyer could approve. Content to dispose of the cases before them, according to their notions of right, they paid little attention to the decisions of former judges; and were as little anxious to furnish precedents which should be binding on their successors.

"I could have the office of judge," writes my father, June 20th, 1798, "if I would accept it; but its duties are too laborious for my feeble constitution; and the salary is inadequate. If my property were sufficient, no situation would have so many charms for me as a strictly private life, in which I could have leisure for society, and time for study. Business, pressing day and night, wears upon my health, and sometimes, I fear, upon my temper." He, however, accepted, about this time, the appointment of County Solicitor, which, being in the line of his profession, he consented, at the request of Governor Gilman, to hold for the present, with an understanding that he should resign it when he pleased. "I am determined," he says, "to quit the bar, as soon as I can settle my business, and perform the engagements already made

with my clients. I have been too careless of my health, and have suffered severely by my devotion to business, which is becoming daily more irksome. I have little time for reading or study, except what ought to be given to sleep." It should be recollected that he was, at this time, in full practice at the bar, a member of the Legislature, and, though holding no high office, the acknowledged and efficient leader of his party in the state.

A branch of business which now gave him much trouble, and made him, along with some warm friends, many enemies, was connected with the great interests of religious freedom, which he had always so much at heart. The Congregational clergy in the state had been originally settled by the towns or parishes where they preached; and the inhabitants were all taxed for their support. But many individuals of their congregations, having now become Baptists, Methodists, or Universalists, were no longer willing to pay for preaching which they did not attend. Property had been taken in many cases, on distraint, for taxes so assessed, and suits were commenced to ascertain the rights of the parties. He refused, in such cases, to be of counsel for any town or parish, which sought to compel men to pay taxes, contrary to their will, for religious purposes; but offered his services readily to those who claimed exemption from such taxes. Suits of this kind were now tried, which excited

much interest in the community; and in some of them he won verdicts of the jury against the charges of the court. In one such case, where the party resisting the tax was a Universalist, the decision was against him. Judge Wingate charged the jury that, if the party claiming the exemption, did not prove himself, in the words of the Constitution, to belong to "another persuasion, sect, or denomination," he was bound to pay his tax for the support of the minister of the town; and that, to make him such, the difference must be something more than that which separated Calvinists from Universalists; in other words, that a person who believed in universal salvation might, in the eye of the law, be of the same persuasion with another, who believed that not one in ten would be saved. They agreed, said the judge, in more points than they differed in. They were both Christians; and the inference, somewhat harshly drawn, was that they were both bound to support the same preacher. Wingate's zeal, in this class of cases, was probably political rather than religious, for he was not himself quite orthodox in his belief. But the sectaries were nearly all Republicans; while the Congregationalists, especially the clergy, were generally Federalists.

Wingate did not confine himself, on this subject, to charges from the bench. "During the session of the Superior Court at Dover, (February, 1799,) Judge

Livermore privately informed me," says my father, "that his brethren, Farrar and Wingate, had expressed to him a decided disapprobation of my constancy and zeal in supporting those who claimed exemption from taxes for the maintenance of clergymen. I replied, I was sorry that any of the court were so much in favor of supporting a privileged order; but that this circumstance, instead of checking, would increase my exertions; and so long as I remained at the bar, the court would find me a persevering and determined advocate for the rights of conscience and of property, both involved in these issues." The Constitution of 1792 was intended to secure to all religious denominations the most perfect religious freedom, and to prevent the "subordination of any one sect or denomination to another." But much was yet to be done, both with courts and juries, and especially with the great mass of the religious community, before this equality of all sects in the eye of the law, and their independence of one another, could be brought home to the understandings of the people, and carried out in courts of law, to its practical results. These religious prosecutions were among the most important means, though not so designed, for effecting this desirable object. It was not, however, till the Toleration Act of 1819, that full effect was given to those principles of religious freedom, for which my father had so early and earnestly contended. He

always regarded with complacency the influence he had exerted in bringing about this salutary change.

In connection with this subject, though having no relation to it, he mentions another rule of practice, which he early adopted, that of affording his aid to the poor, for the maintenance of their rights, without fee or reward. "I never withheld," he says, "on account of his poverty, my services, or the money necessary to carry on his suit, from any man who applied to me, if his cause appeared to be just. Though I lost by this class of persons thousands of dollars, either in money actually advanced, or services performed, I never regretted the sacrifice. It increased my labor, and made some hard, unprincipled men, my enemies; but even they felt for me more respect than hatred; and it interested the feelings of better men in my favor."

In 1800, I do not find much among his papers respecting his professional business, except, indeed, complaints of its pressure beyond his power of endurance, and declarations of his intention not to be much longer the slave of other men's business to the neglect of his own, and the injury of his health. The statute of limitations, as it respects actions on the case, took full effect this year. "This circumstance so much increased," he says, "my professional labors, that, added to my ordinary business, and my attendance on the Legislature, there was little time left

me for reading, study, or amusement of any kind." Sickness prevented his attending, the next year, the September term (1801) of the Superior Court at Exeter. "This was," he says, "a serious injury to me, and to many of my clients, who could not readily, without previous notice, supply my place in their causes. As this ill health seemed likely to continue, I determined, as soon as previous engagements would permit, to relinquish my profession, to which my strength was no longer equal. I accordingly began in earnest to settle my accounts, collect my debts, and invest my money where it would be safe, and give me a reasonable return, without requiring much of my time or attention."

In June, of the next year, he was elected Senator in Congress; and his accepting this appointment may be considered as virtually putting an end to his practice as a lawyer. "In August," he says, "I resigned my office of Solicitor, my determination being to relinquish the profession of the law altogether. My duty as Senator will prevent my attending nearly half the courts in the year, unless I neglect the public service for my own private emolument, which I have no right to do." Though for several years after this he attended some of the courts, and argued cases, either under previous engagements, or occasionally for some of his old clients, he never afterwards gave himself wholly up



to the business, or returned regularly to the profession. He was forty-three years old when elected Senator, and had not yet seen half his days. But his health was seriously impaired, and he seems to have considered his life as drawing to a close. Considering the great age which he finally attained, it is remarkable how often he was attacked, and almost mastered, in early and middle life, by diseases which, at the time, seemed well-nigh fatal. It is not less remarkable that so slender a constitution should have been capable of such severe and long-continued labor. But he was abstemious in his diet, regular in his habits, and generally careful not to exceed the measure of his strength, though never sparing of his exertions when the occasion required.

I have given these extracts from letters, and fragments of journals, as presenting, with the accompanying commentary, a better view, on the whole, of his labors in the profession, than any more general description could convey. There remains to be given, in the next chapter, some account of his character, practice and attainments as a lawyer, and of the opinions entertained of him by his principal associates at the bar.

## CHAPTER VI.

### THE LAWYER.—(CONTINUED.)

THE life of a successful lawyer, though full of interest to himself and others, has ordinarily few incidents which can be made the subject of protracted narrative. The labors of years shrink in the recital into a few pages. Particular cases of more than ordinary interest, might, indeed, be made to fill chapters, and even volumes. The subject of this memoir was engaged in some such, which, if properly reported, would have been characteristic of the man, and illustrative of the times. But such reports were not then made, and cannot now be procured. Probably in no department of life is there displayed so much talent which leaves no record, as in the trial of cases in courts of law. Shrewd management and ready wit, the keen retort, the deep learning, and the impassioned eloquence of the accomplished lawyer, all come into play, and tell strongly on the result. But they do their work, and are seen no more. Felt and admired at the time, they go to make up the contemporary estimate of character, living on the spot, and in the memory of those who witnessed

them, but not to be reproduced for other times, and other admirers. However good in themselves, and effective in their original connection, they are essentially of the things *which perish with the using*. No attempt will therefore be here made to give any account of particular trials in which my father was concerned—the *causes célèbres* of his time. They are lost in the obscurity of the past, and with them much of the reputation which they helped to build up, *carent quia sacro vate*. “They had no poet, and they died ;” no stenographer, and they are unreported.

There was, in my father’s time, so little division of labor in the profession, that he had, from the first, to sustain the various characters of an adviser, a conveyancer, a special pleader, an examiner of witnesses, a narrator of facts to the jury, and an arguer of law to the court—barrister, attorney, solicitor, advocate, in regular and rapid succession. An account of him in these different relations will give us some further insight into his professional character, and his standing at the bar. As a counsellor, in his office, he was patient in hearing the stories of his clients, and searching in his inquiries as to the true merits of their cases, before giving them his advice. They were often surprised to find, after a few pertinent inquiries, that he understood their cases better than they did themselves. He was slow to advise the commencement of suits, and he never did so where

he had any reasonable doubt as to the result. His judgment was so sound in this respect, that he seldom misled his clients. After the first three or four years of his practice, he had no temptation to plunge men into uncertain litigation from the desire to increase his own emoluments. He had business enough ; and it was often less a favor to him to be employed, than it was an advantage to his client to secure his services. He had, first and last, sent away, he said, a regiment of men ; many of whom, though dissatisfied at the time, came back when their passions were cooled, to thank him for keeping them out of the law, offering to pay him for not doing what they were before eager to have him do. But though slow to begin in doubtful cases, when once engaged, no repulse ever discouraged him. A first, or even a second verdict did not prevent his trying again, when he felt that his cause was a good one ; and his perseverance often won, on the final trial, causes which more timid or less resolute men would have abandoned in despair.

In the drafting of legal instruments, in the profession of the conveyancer, and its kindred employments, he was peculiarly happy. He saw clearly, in such cases, what was wanted, and he knew how, in precise and accurate phraseology, to express it. The needless verbosities, the repetitions, and involutions with which legal instruments are usually so much encumbered, found little favor with him. He expressed, in

a few words, plainly and directly, the intention of the parties ; and as to "the rest, residue, and remainder," the boundless contiguity of unnecessary or unmeaning words, in which such intention is often not so much manifested as concealed, he left that to those who took delight in the darkness of these time-honored ambiguities. Among the legal improvements which he recommended, was the publication, by authority, of a book of forms for the ordinary business purposes of life ; in which clearness, brevity and simplicity should be studied, and certainty secured, instead of the obscurity, tautology, redundancy and circumlocutions often found in such instruments. Akin to this business of preparing instruments of conveyance, bond, and obligation, is that of drawing writs and declarations, and the science of special pleading. With the elaborately artificial, yet to the eye of the initiated beautiful system of English special pleading, he was less acquainted than with some other branches of the common law. "My preceptor Prentice was," he says, "profoundly ignorant on this subject ; and I never acquired that thorough knowledge of it, which is necessary to make a finished lawyer. Though I do not recollect a single plea, or declaration, in the course of my practice, which I lost, for want either of form or substance, my diffidence, arising from imperfect knowledge on this subject, often gave me uneasiness, and occasioned loss of time in studying

particular cases, which a more extensive knowledge would have enabled me at once to comprehend." Special pleading was not much in use when he first came to the bar, as may be readily understood by the anecdote of Mason and West in the last chapter. It did not indeed become a matter of much attention till towards the close of his practice; so that, if he was not learned in this part of his profession, he had less occasion than he would have had, at a later period, for such learning. But with Sullivan, Smith and Mason for opponents, if he never lost a plea or declaration for defect of form or substance, it may be inferred, notwithstanding his modest disclaimer, that he was not, even in this branch of the law, very deficient. In the art of special pleading, Parsons, we are told, had no competitor; it was Parsons's book of forms which he had copied in Prentice's office; and with Parsons he was often engaged as junior counsel, and sometimes as opponent.

His action once in court, and the pleadings fairly closed, the lawyer's next care is to bring his case favorably before the jury. The examination of witnesses is one of the severest tests of his capacity, requiring, often, in no ordinary degree, alternate boldness and caution, skill, judgment, promptness and self-possession. In the discharge of this difficult part of his professional duty, my father was much distinguished. While seemingly intent only on the

discovery of the exact truth in the case, he knew how to bring out from the witness just what he wanted to prove by him; and to bring out no more, when more would be prejudicial to his client. Assuming in his inquiries the position of the jury, he seemed himself as one of them, acting as their foreman, asking questions for them, solely with a view to elicit the truth of the case; and not as the advocate of one of the parties, whose aim it might be to mislead and deceive them. The witness, on his part, felt that, though he had a friend in his examiner, it was one who could not be deceived, and would not accept less than he had a right to require. The timid witness grew confident under the influence of his cheerful tones and encouraging smiles; the stupid brightened into sense in the clearness of his pertinent inquiries; the hostile was disarmed by his kindness; the cunning thrown off his guard by his ease of manner, and the apparent harmlessness of the questions asked. In cross-examination, his manner was cautious and conciliatory; but keen and persevering in the pursuit of truth; quick to detect error or contradiction; and when concealment was attempted or falsehood uttered, it was no ordinary man who could stand unmoved the indignant flashes of his angry eye, or meet, without shrinking and confusion, the storm of searching questions, plied in rapid succession, and coming in unexpected variety

and force from every quarter of the horizon, with which he bore down and swept before him the baffled, self-convicted, and, to all eyes, perjured witness. The snarl of contradiction and improbability, in which he wound him up, and threw him indignantly from him as unworthy of further notice, left the opposing counsel little hope of ever smoothing out again the tangled skein of falsehood and self-condemnation. Such a witness required no new dissection in arguing the case to the jury. His fate had been settled on the stand; and with it perhaps the case itself, already well-nigh won by the triumphant cross-examination. This, however, was not his usual manner. In general, he won the reluctant witness by mildness rather than by force; and drew from him slowly, by indirection, the truth which he had come prepared to conceal, but which the adroit questioning of the quiet and civil examiner had drawn from him unawares. While by apt questions, skilfully applied, he led his own witnesses to tell what they knew, in the order best calculated to give effect to their testimony, he drew with equal skill, from the witnesses on the other side, what his opponent had purposely kept out of sight, as adverse to his cause. What questions may be safely asked, when to press a reluctant witness, and when it is better to forbear, are points in practice which it is not always easy to decide; but which



must be settled promptly on the spot, and sometimes at the risk of losing the case by a single rash question. His rare sagacity served him well on such occasions; and he seldom received, even from the most unfriendly witness, an answer which left his case the worse for the asking.

Witnesses under the pressure of this close cross-examination are often tempted to turn on their pursuer with some impertinent inquiry or remark, either to relieve their embarrassment, or to disconcert the examiner by turning his attention to his own defence. Mr. Webster told me that he once saw my father so assailed. He was examining a noted quack doctor, whom he had pressed rather hard, and from whom he could, at last, get no other answer to his inquiries than, "I do not know, sir." After this had been several times repeated, the question came, "Can you say, Doctor, that, as a physician, you know any thing?" Changing at once the tone of pretended ignorance, with which he had answered the former inquiries, he drew himself up to his full height, and said, with great confidence, "I know, Squire Plumer, as much of medicine, as you did of divinity, when you were a Baptist preacher." This sally drew a smile from the court and bar, and seemed to the audience a very fair hit. His examiner said very quietly, "When I found that preaching was not my proper business, I had sense enough

to leave it. If you, Doctor, had possessed as much, you would have left off the practice of medicine years ago, and saved me the trouble of exposing your ignorance and presumption in this case." The laugh was now on the other side; and the Doctor, who no longer affected ignorance, but showed it more than ever, was pressed home with yet closer and more searching questions, and finally dismissed crest-fallen and discredited from the stand.

My father never allowed any collateral issue to draw him for a moment from the question before the court. No temptation to show his wit, his eloquence, or his learning prompted him to ask questions, make points, or indulge in remarks, which did not bear clearly and directly on the case under consideration. To be told that he had made an eloquent speech gave him less pleasure than to find that he had won his cause, or, if he had lost it, to know that no fault in its management could be imputed to him. He accordingly made no speeches for display, no eloquent declamation to be admired by the audience; but put himself closely and resolutely down to the precise question before him, the facts in the case, and the law that should govern it. He had in this way no occasion for long speeches. An hour, an hour and a half, or, in a few intricate cases, two hours at the most, sufficed for all that he had to say. He left speeches, he said, of four or five hours, to those who

could not make them shorter. His style of speaking was adapted to his audience. He never spoke over the heads of his hearers. There were no nice law distinctions for jurors; no refinements of thought for plain farmers; but strong sense, and familiar but striking illustrations, level to their comprehension, and accordant with their tastes.

His skill in telling his story was so great that his narration of facts was often the whole of his address to the jury. He had the happy faculty of conveying an argument in a narrative form, and could half refute an opponent by merely stating his positions. The jury went along with him in his facts, and before him in his conclusions, wondering how facts so plain could be doubted, or conclusions so obvious denied, on the other side. Omitting all that was unimportant in the testimony, he dwelt only on the strong points of the case, and made as few of these as possible; aware that a few strong points are better than many weak ones. The clearness of his mind, which saw at once the true position and relative weight of the facts, infused itself gradually into the minds of the jury, and whatever of indistinctness or confusion hovered at first over the case, soon disappeared before the simplicity of his statement, and the force and precision of his reasoning. The facts fell naturally into their proper places, or at least into the places best suited to his purposes, converging steadily

to the same point, and all leading to the desired conclusion. He used to say that before speaking five minutes, and often while examining the witnesses, he had felt the pulse of the jury, and knew how they stood affected towards his client. If he found an individual hostile or indifferent, he fixed his eye upon him, drew his attention to the strong points of the case, and did not leave him till his looks showed that his attention was secured, his doubts removed, and his hostility softened, if not overcome. His sagacity was seldom at fault in discovering the character of men in their looks; and his intercourse with all classes was so extensive, that few entered court, whether as parties, jurors, or witnesses, whom he did not know, and to whom he could not speak with the advantage of some personal acquaintance with their characters, interests, and feelings. He possessed, in an eminent degree, that nice tact of the orator, which reveals to him, as he advances, the impression he is making on his hearers; and tells him, at once, when he has gone far enough, when he has touched on too tender a point, when he has made a happy hit, and, above all, when it is time to stop. He was, therefore, never tedious to his hearers; nor "thought of convincing, while they thought of dining."

He had the dramatic faculty of throwing himself, by turns, into the position of his client, his opponent,

his witnesses, the court, and the jury ; and, whatever might be the case in hand, he seemed to feel the passions which it was his object to inspire. Yet this warmth of feeling took nothing from the coolness of his judgment, or the skill with which, while choosing his own positions, he repelled the attacks of his opponent. The power of his eloquence was not in studied language, in artificial arrangement, or in pomp of declamation, of which he had nothing, but in the fervor of the feelings to which he gave utterance, and the force and clearness of the thoughts which sprang, as if spontaneously, from the convictions of his own mind,—an impulse which, it seemed, he could not himself resist, and to which others, therefore, the more readily yielded. The contagion of passion spread from his own to other bosoms ; the ardor of conviction from the advocate to his hearers. It seemed less the zeal of professional duty, than the energy of truth, which inspired him. The power of entering, not with apparent fervor, merely, but, for the moment, with the true warmth of genuine sympathy, into the merits of his client's case, yet without losing the self-possession necessary to judicious advocacy, is the rare attribute of the accomplished and successful advocate. When, from the nature of the case, this warmth of feeling was unnecessary, or would have been out of place, his coolness, promptness, sagacity, and strong practical common sense, left

nothing unattempted which could secure success. Sullivan, Smith, Mason and Webster, were employed against him; yet no client of his ever complained that his cause suffered, either from want of talent or information in his attorney, from indifference to his interests, or inability to maintain them, against even such opponents.

That such men put his powers to the proof cannot be doubted. Speaking of his own training, in the same severe school of practice, Mr. Webster said, on the occasion of Mr. Mason's death, "I must have been unintelligent, indeed, not to have learned something from the constant display of that power, which I had so much occasion to see and feel." No man of ordinary talents or attainments could hold his ground in these struggles, or come out of them uninjured. Yet, in the severest competitions of the bar,—the conflict of mind with mind, in which learning and skill, wit and eloquence, promptness and audacity, were all in turn required,—there was an intenseness of life and enjoyment, an excitement of feeling, an enlargement of heart, and a power of intellect exerted, which made such encounters at once delightful to my father, and dangerous to his health. His frame was not equal to the labors of his vocation; and he seldom returned from court without being confined for days, by illness, to his room, and sometimes to his bed. More than once, these attacks

produced such utter prostration of strength, as to threaten, for a time, to end his labors with his life.

It only remains to speak of his mode of arguing questions of law to the court. The practical turn of his mind was here conspicuous. He indulged in none of those nice, wire-drawn distinctions, which, though the delight of subtile intellects, are too refined for the coarse business of ordinary life. He rested his case mainly on broad views of justice, on that comprehensive common sense which leads by obvious steps to practical results,—to those precise and definite conclusions with which life and daily practice can be alone conversant. He had habitually little reverence for authority, and was more fond of appealing to the reason of the law than to the weight or number of adjudged cases. Regarding jurisprudence as a science, resting on general principles of right and justice, he labored to make himself master of those principles; and trusted to his own strong reasoning powers to carry them out, in practice, to their legitimate conclusions. He was, therefore, a sound reasoner on questions of law, rather than a deep-read or bookish lawyer; and prided himself less on the learning of cases, than on his acquaintance with the reason, the nature, and the objects of the law; arguing mainly from elementary principles and acknowledged truths to the conclusions which he sought to establish. When these were reached, if he added a few strong

cases, in confirmation of his doctrines, it was for the satisfaction of others, rather than because they seemed necessary to his own mind.

In this, as in some other respects, he resembled Samuel Dexter, of Boston, who came sometimes into our courts, rather than Theophilus Parsons, who practised for many years, regularly, in them. These distinguished lawyers being, on one occasion, opposed to each other, Dexter, who had comparatively little law learning, said, in the conclusion of his argument, "The law in this case is as I have explained it; and it lies, as your Honors see, in the compass of a nutshell. My brother Parsons has here a basket full of law books; and he will endeavor to show from them that it is all the other way. But one plain dictate of common sense, one clear maxim of the common law, is worth a cart-load of such rubbish." This was said as a taunt, perhaps; but it marked, to a certain extent, the character of the man. Something of the same kind is told of Judge Marshall, who, in consultation with the Judges of the Supreme Court, is said, on some occasion, to have laid down the law, as deduced by him from acknowledged legal principles, in a train of powerful reasoning, and to have concluded by saying, "Such appears to me to be the law in this case; though I have not, I confess, looked much into the books in reference to it. If I am correct, our brother Story,



here," turning with a benignant smile to that learned jurist, "can give us the cases, from the Ten Tables down to the latest term-reports." Something of the same difference of mental habit existed in the case of Smith and my father. Smith was learned in law books, and elaborate in cited cases. My father dealt less with authorities, and more with the reason of the law. While the one sought the rule among conflicting precedents, the other found it in the immutable principles of truth and justice.

Not that my father despised authorities, or failed to use them when they served his purpose, as with a certain class of minds they always do, better than abstract reasoning, or an appeal to general principles. The authorities sometimes cited by him, though quite effective, were not always such as would be deemed pertinent at the present day. He used to tell, with great glee, of having, in his early practice, carried a point of law against Parsons, who relied on English authorities, by a quotation from the law of Moses, which seemed to the court, and especially to Judge Dudley, entitled to more weight than any citation which Parsons could make from Coke, or Hale, or my Lord Mansfield. "Mansfield," exclaimed Judge Dudley, "that is the cunning Scotchman, who, with Lord North and George the Third, would have made slaves of us all." It was not, however, for law to the court, so much as for argument and illustration with

the jury, that his scriptural knowledge was useful to him in such cases. A text from the Bible would, at the present day, be lost on the court, and might, perhaps, avail little with the jury. It was not so in the latter half of the eighteenth century, when both court and jury knew more of the Bible than of law-books. The men who then filled the jury-box had read their Bibles, and many of them little else. A scriptural quotation was often more effective with them than an argument from any other source. In this way, the former eloquent preacher, and present sagacious lawyer, came down upon his opponents with a weight of authority, and an aptness of illustration, which seldom failed of its intended effect. The law of the case, as laid down in the books, was of course argued and explained ; but it never seemed so strong to the jury as when enforced by some precept of the Mosaic law, some shrewd saying of the wise King of Israel, or some fervid injunction of the apostle of the Gentiles. The habit of scripture quotations, which came to us from the Puritan fathers, and which is now getting a little obsolete, was, at that time, much in accordance with the popular taste. It was to my father what the Greek and Latin poets are to the classical scholar. With the classics of our own language, with the exception of Pope, whose terse and brilliant couplets he often quoted, he was, in the early part of his career, but

little acquainted. It was not till his fiftieth year that he read the entire works of Shakspeare ; and he expressed to me his regret that, for the purposes of the bar, as well as on so many other accounts, he had not been earlier conversant with the wit and the wisdom, the depth and the universality of Shakspeare's knowledge of human nature, his familiarity with every phasis of life and action, and his mastery of all the passions and emotions of the soul.

I mentioned, in a former chapter, the names of the principal lawyers at the bar, with whom Mr. Plumer had to act when he was first admitted to the practice. As the older among them were gradually withdrawn by death, or other causes, from the forensic strife, the younger Sullivan, Smith, Mason, and Webster, came successively on, not to take their places merely, but to give new power and a higher interest to the generous and ennobling competition. To compare my father with these great lawyers would be a difficult task in itself, and certainly one of some delicacy for the present writer. It will not be here attempted ; yet a few traits in the character of each, as contrasted with his, may not be out of place in this estimate of his character and standing at the bar. George Sullivan was for forty years in full practice at Exeter ; and, as Attorney-General, which office his father had filled before him, and his son has since filled, he rode the circuit of the State, and

practised in all the counties. He was a classical scholar, and professed to have formed himself on the model of the great Roman orator. He was well read, according to the standard of law learning in that day ; a good special pleader, quick to perceive the bearings of his case, and ready of resource in new emergencies. In addressing the jury, he was master of an easy and harmonious flow of ready elocution, which, though little varied, was the delight of jurors, and the admiration of crowds of eager listeners, who were never tired of praising his handsome person, his fine attitudes, and elegant attire, and who hung with rapture on the soft sounds of his silver voice. His peculiar style of measured and almost rhythmical speaking, he is said, by Judge Smith, to have caught from Samuel Dexter. If he was in this an imitator, his son is not less so,—it was more probably natural in both. With his mildness and decorum of manner, there was in his temperament a keen sensibility of feeling which contrasted strongly with the contemptuous power of Mason, and, when occasion demanded it, with the withering scorn of Webster. The anger of Sullivan flashed, indeed, like gunpowder ; but the puff was as quickly overblown. No man was, in general, more courteous and gentlemanly in his bearing, or stood better with his brethren of the bar. My father's manner was, in many respects, the reverse of that of Sullivan. With

none of his pomp of oratory, he had more variety of expression, and more force of thought, and was less liable to be thrown suddenly from his track by the impulse of passion.

With Smith, he had many points of agreement. Lawyers by profession, Federal in their politics, and liberal in their religious views; regular in their habits, and indefatigable in business; fond of books, and devoted to letters, at a time when such devotion was less common than at present, they had been for many years warm friends and constant correspondents. There were, however, quite as many points in which they differed. The one was grave, thoughtful, direct and earnest; the other quaint, full of humor, and addicted to irony. The turn of the one was to original thought; that of the other to accumulated learning. The one was brief, pointed, sententious; the other copious and diffusive, going over the ground in repeated excursions, heaping up facts and law, arguments and illustrations, till he seemed sometimes lost in the superfluity of his abundance. In several important cases, after Smith's removal to Exeter, in which they were opposed to each other, the one made his clear, forcible, and well reasoned speech of forty minutes or an hour, and won his cause; the other his brilliant and witty harangue of two or three hours, and lost it. Not that Smith was an unsuccessful advocate; but the result of many trials proved that he

was stronger with his law for the court, than with his facts for the jury. In 1802, he took his seat on the bench of the Superior Court, where, as Chief Justice, he acquired eminent reputation by his learning, his industry, and his high legal attainments.

Mr. Mason came to the Rockingham bar in 1797; and it was at once felt that his Titanic bulk and elephantine movement were but the due accompaniment and emblems of a mind as gigantic, standing intellectually, as well as physically, above other men. Cool, wary, devoted to his client, and prompt to seize every advantage, whether of form or substance, which could aid his cause; in knowledge of the law, in ability to bring its remotest analogies and most subtle distinctions to bear strongly on the question before the court, in legal acumen, and cumulative power of close reasoning, he had no equal at the bar, or on the bench. If he was sometimes too refined and minute in his distinctions, it was because he saw clearly himself, and could make palpable to others shades of difference in cases, which, to ordinary minds, seemed identical. In the examination of witnesses he was not less distinguished. Woe to the dishonest witness who fell under the grasp of his unsparing hand. No engine of torture ever made joints snap, and nerves and sinews strain and crack, with more merciless severity, than did the questions with which he plied the reluctant or perjured witness, wrench from him

the facts which he sought in vain to withhold, or disjoint and dismember the specious falsehoods put forward by him under the guise of truth. No accumulation of cunning was too deep for him to pierce it. He bored the strata in every direction, and to all imaginable depths, till, if there was a vein of falsehood in the mass, his rod reached it, and it spouted up, at once, in sight of all beholders. He had not, in speaking, the advantage of a good voice; nor was his manner graceful. He made no pretence to eloquence, or ornament of speech, and he sneered at all appearance of feeling, or emotion, as affected, or out of place, in an advocate at the bar. But he seized, as with a giant's grasp, on the attention of both court and jury, and bore them forward, with irresistible force, to the conclusion of his argument. The hearer was not so much persuaded, as compelled to go along with him. The argument was one connected chain of clear statement and strong reasoning,—a chain in which there was no weak link, and which bound the premises, however remote, or apparently disconnected, with the desired conclusion,—a conclusion which the hearer felt, long before it was reached, that he could, by no possibility, avoid, or stop short of, or turn aside from. In all this there was no declamation, and no appeal to the passions. The only passion, indeed, which he ever seemed to feel, was that of contempt; contempt for his opponent, his client, and

his witnesses; contempt, even, for the court and the jury which he was addressing; a feeling which those who were its objects in vain strove to resist, and which was, in fact, one of the strong agencies by which he wrought them to his purpose. Speaking of the terrible power of his sarcasm, Mr. Webster said it was "not frothy or petulant, but cool and vitriolic." This latter epithet shows that he had himself felt at times its caustic severity. With Smith, both before he went upon the bench, and after he left it, Mason had frequent contests, degenerating sometimes into personalities more amusing to the spectators than agreeable to the parties concerned. There was, on these occasions, between them no child's play, no sparring with blunt foils; but cut and thrust, with sharp steel, in sincere and earnest encounter. The New Hampshire bar, at this period, according to Chief Justice Parker, inculcated on its members "great fidelity to the interests of the client, rather than great courtesy towards the opposing counsel." Yet no permanent ill-will, or personal rancor, was engendered by these ebullitions of professional zeal. Each knew the power of his antagonist, and admired, as kindred to his own, the vigor of the blow, even while reeling under it. Smith, in these struggles, showed, perhaps, more adroitness; Mason certainly more strength. At a later period, both of these came often in contact with the ready wit and acrid humor



of Ichabod Bartlett, who was one of the remarkable members of what was then a very remarkable bar.

A greater man than even Mason, though not a greater lawyer, showed himself when Webster came to Portsmouth, in 1807, to take his share in these hardy contests. My father first tried the strength of the new combatant in a road case of some interest and notoriety; and, though he felt and acknowledged his extraordinary power, he neither shrank from, nor lost credit in, the encounter. He won his case, and impressed on his opponent a high sense of his skill and resources,—an opinion which, on all suitable occasions, Mr. Webster was ever after ready to express. My father considered the manner of the young advocate, on this occasion, as too excursive and declamatory; and predicted that his direction would be to politics rather than to law,—a judgment only partially verified by the event. For, though pre-eminent as a statesman, he was hardly less so as a lawyer; giving, in this respect, a rare example of the highest distinction obtained by the same person in these two great departments of thought and action. I was once present when they were arguing against each other some question of evidence to the court, and was much struck with the manner in which Webster commented on a passage read by my father from Peake's Law of Evidence. After criticizing it severely as bad law, he ended with pronouncing the

book itself a miserable two-penny compilation, throwing it with an air of contemptuous disdain on the table, and adding, "So much for Mr. Thomas Peake's Compendium of the Law of Evidence." The manner alone seemed sufficient to settle the point forever, and to place Thomas Peake henceforth below the notice of court or bar. My father made no answer whatever to his comments on the passage quoted, but quietly handed up to the Chief Justice a volume of Burrow's Reports, open at the place where Lord Mansfield lays down the law in the very words used by Peake, and requested him to read it. When he had done so, Webster took the book, looked some time at it, and then laid the volume on the table, with no attempt to answer it. It was now evident that Peake, backed by Mansfield, stood once more *rectus in curia*. Mr. Webster's language, at this early period of his practice, was often austere and unceremonious, not to say rude and overbearing, not to the bar merely, but sometimes to the court; and this "abruptness of expression" was, according to Judge Parker, "rendered more marked by the volume of his voice," and, he might have added, by the glow of his cavernous eyes, and the curl of his scornful lip. At a later period, he was seldom deficient in the courtesy towards his opponent, and the deference to the court, which were due not less to his own character than to theirs. The

first impression which Mr. Webster made on Mr. Mason, was thus related to me by the latter, many years after: "He broke upon me like a thunder-shower in July, sudden, portentous, sweeping all before it. It was the first case in which he appeared at our bar; a criminal prosecution, in which I had arranged a very pretty defence, as against the Attorney General, Atkinson, who was able enough in his way, but whom I knew very well how to take. Atkinson being absent, Webster conducted the case for him, and turned, in the most masterly manner, the line of my defences, carrying with him all but one of the jurors, so that I barely saved my client, at the last moment, by my best exertions. I was never more surprised than by this remarkable exhibition of unexpected power. It surpassed, in some respects, anything which I have ever since seen, even in him." My father did not remain long enough at the bar to witness much of Webster's subsequent career there. He had been long accustomed to the ready elocution and Milesian blood of Sullivan, the elaborate learning and quaint humor of Smith, and the proud superiority with which Mason maintained his sway over court and bar, jury-box and witness-stand. Into this arena of intellectual contest Webster brought his cold, unimpassioned power of close logic and unyielding argumentation; his intuitive perception of the strong points of his

case; his ready command of precise and perspicuous language; his severe taste; and, above all, when hard pressed and roused by opposition, that warmth of passion and fire of emotion, which, fusing the rugged metal of his harsher nature, poured the mingled mass of thought and feeling, hot and glowing from the furnace of an excited mind, into forms of beauty and structures of grandeur, admirable alike for graceful proportions and colossal strength.

I have dwelt so long upon the keen encounters of these adverse, and sometimes angry wits, that the reader may perhaps conclude that these remarkable men were great only in what Lord Eldon calls "*the war of words, the battle of lawyers' tongues,*" on this theatre of forensic disputation. They were, however, all of them distinguished politicians as well as lawyers. In the more private relations of life they were equally remarkable. Smith, in his old age, even more, perhaps, than at an earlier period, was the delight of both young and old, by the rare gift of his extraordinary conversational powers. While his good sense and his industry made him an able lawyer, there was high originality, true genius, in his humor. What gaiety, what wagghery and exuberance of youthful spirits in this arch and facetious old man, so bent on sport, and indifferent to the decorous observances of grave society! What a rare vein of satire and piquant raillery, always sprightly and amusing,

and, if not always harmless and inoffensive, yet wholly free from the venom of malignant misanthropy! In his graver moods, Smith was equally interesting, with the stores of his learning, and his reminiscences of Washington, Hamilton, Madison, Marshall, Ames, and other great men with whom he had become acquainted while in Congress. Mason's conversation was of a different character. He had none of Smith's wit or humor, but a style of sarcasm peculiarly his own, growing out of the severely practical turn of his mind, which scorned all affectation of feeling, and had little charity for that in others of which he had none himself. Grave, suggestive, full of original thought and curious information, he seemed equally familiar with history, government, morals, science, the concerns of common life, and the occupations and pursuits of men. He was fond of conversation, and wanted only a patient listener, who should stir him occasionally with pertinent inquiries, to draw forth, for hours together, the rich treasures of his accumulated knowledge, and the yet richer resources of his curious and original thought. No man ever left him, after such an interview, without carrying with him facts to be remembered, and material for reflection, meditation and inquiry. Of Mr. Webster, it is enough to say that he was as attractive in conversation as powerful in debate. He, too, had with his profound veins of original

thought a rich fund of anecdote, and hoards of learning deposited in a memory which held everything it had ever grasped; and he was always as ready to communicate, as eager to acquire. The condescension of his manner, when disposed to unbend, was all the more delightful, as contrasted with his usual dignity of deportment, and gave to his smile a kindly welcome, and his few but expressive words of compliment and commendation a power of fascination which few could resist.

It may well be doubted whether any other county bar in the Union could have matched the three or four remarkable men to whom I have thus briefly adverted—two of them, certainly, second to none of their times. Distinguished, however, as they were, the subject of this memoir played among them no subordinate part. Unequal in mere law learning to Smith, with less acuteness of metaphysical discrimination than Mason, and yielding, as all others have done, to the massive intellect of Webster, he was equal to either of them in his knowledge of human nature, in promptness of resource, in dexterous adaptation of means to ends, in clearness and precision of statement, in aptness of illustration, and in that ready command of popular eloquence, which, springing evidently from warmth of conviction, carried with it the sympathies of his hearers, and won for him the favor of the court, and the verdict of the jury.

It was this verdict, which, in all his efforts, he kept steadily in view ; and when this came he felt that he had attained his object, which was not to make a great speech, or a learned argument, but to win his client's cause. It was his devotion, in every stage of the case, to the business in hand, his never deviating to any collateral issue, or stopping to scatter flowers of rhetoric, or indulging in flights of fancy or pomp of declamation, which brought him so frequently and so surely to the desired termination of his labors, and acquired for him the reputation of the most successful advocate of his time. "Clearness, force, and earnestness," says Mr. Webster, "are the qualities which produce conviction;" and these were the elements of success in this, as in other cases,—a perspicuous statement of facts, a severe style of close reasoning, and a force and earnestness of manner, springing, if not always from conviction of the justness of his cause, yet in all cases from a feeling that it was his duty to his client to put his full force into the cause he had undertaken to advocate.

I was a school-boy in the academy at Exeter during the latter part of his active practice at the bar, and had therefore an opportunity sometimes to hear him speak. I remember one case in particular, which, possessing some local interest, and being argued on a Wednesday afternoon, nearly all the academy boys attended. We were delighted with the arguments;

and, on coming out, I found myself suddenly the object of more than usual attention, not at all on my own account, but as my father's son. During vacation he sometimes took me with him when he had a case before a justice, or before referees. One such case, which I attended at Hampton Falls, furnished me an example of the boldness and severity with which, fearless of consequences, he spoke, when occasion required it, of the conduct and character of men. In this case, he felt himself called upon to dispense his censures in no measured terms, holding up the conduct of the party to which he was opposed to the ridicule and the contempt of the referees, and of the numerous audience of his neighbors that filled the house. This he did with such force and heartiness, that he seemed to me to have made the man forever his personal enemy. When the hearing was over, he called for his horse, and we were already in the chaise, when the person so assailed was seen approaching us. He was a large, stout man, of no very inviting looks; and, as he had shown by his gestures and exclamations, while under the lash, that he felt keenly the blows inflicted, my first thought was that he was coming with some purpose of personal violence, or, at least, of abusive language. As soon as my father saw him, he stopped, turned his horse towards him, and looked him steadily



in the eye. "Well, Squire," said he, after a moment's pause, "I have been a good deal in the law, but I was never so abused in my life before. It was too bad." "Not a whit, not a whit," was the ready reply. "You deserved it all, and more too." "Well, well," said the man, a little staggered at this fresh assault, "It was rather hard play, though, at any rate. But I like you all the better for it; and what I want now is to engage you in a suit I have with another of my neighbors; and whether I win or lose, I shall be content, when the case comes to trial, if you will but put it on to him as you have on to me to-day." "Do not doubt it," said my father, laughing, "he shall have twice as much if he deserves it half as well." The man now laughed in his turn, and handing him a retaining fee, went off quite satisfied. "Now, here," said my father, as we rode away, "is a man who thinks all the better of me for the castigation I inflicted on him; and is my friend for life, if I will but treat his neighbor as severely as I did him. Yet, after all, he is not half so bad as he appears to be. He is always in the law, and cannot content himself without a suit in court. A dozen such clients would make a lawyer's fortune. But he has many good qualities. No man would do another, even his opponent, a kindness sooner than he would. If the law turns up some dark sides of human nature, it shows

us also many bright ones. I have not, on the whole, learned to think the worse of mankind for what I have seen in courts of law."

Other reminiscences of my own respecting his character as a lawyer, might be introduced; but they would be of less value than the views of older men, who were with him at the bar. With many such I have conversed, and the remarks of some of them will be here given. Peyton R. Freeman, of Portsmouth, told me "that he had often heard my father speak at the bar; that he had much business, and was remarkably successful with the jury. With the court, though not ostentatious of his law, he betrayed no want of the legal knowledge pertinent to his case. What he knew, he had no difficulty in making others understand."

Another member of the bar, John Porter, of Derry, told me, not long since, that he remembered hearing my father once at the bar, soon after he was admitted to practice. It was in a case of much intricacy of detail in the facts, and some nicety in the law. But the facts were told with such clearness and animation, the law laid down so plainly, and there was so much precision, strength, and continuity of aim and execution in the whole, that he remembered nothing, he said, in his fifty years' practice, which had ever pleased him more.

In a letter dated January 12, 1854, from Nicholas

Emery, a New Hampshire man by birth, late Judge of the Supreme Court of Maine, he writes: "Your father's style of speaking at the bar was very deliberate, methodical, cogent, convincing and impressive. Whether, as a lawyer, he was much versed in black letter learning, which indeed was not then much in use, I cannot say. There was a minute correctness in his mode of doing business—nothing unnecessary, nothing deficient, nothing out of place. He was very successful. Shrewd, sagacious, forelaying and calculating the effect of every move, he seldom missed his aim. Of a high order of intellect, he understood human nature."

"My first acquaintance with him," says Moody Kent, in a letter to me, dated March, 1853, "was in 1805, when he was a member of the Senate, and sometimes came into the Common Pleas sitting at Exeter, in August. After his term of office expired, he attended that court, both at Exeter and Portsmouth, and was engaged in the trial of cases. His appearance and manner were perfectly plain and simple, respectful to the court, gentlemanly in his demeanor to the senior members of the bar, and, more than others, affable and courteous to those of us who were his juniors. In his addresses to the court and jury he was fluent, plain, and always intelligible, never energetic in trifles, or earnest out of place. His speeches were full of good sense and to

the point. At our boarding-house he made himself, by his conversational powers, entirely pleasing to those of us who gathered around him to hear him talk. To gratify us, he would frequently talk of what passed in Congress, of the character and history of the most prominent members, of their sayings and doings, and of their success or failure. Although he was so well listened to that he must have been aware that we thought he talked remarkably well, yet he was not an ambitious talker. If others chose to converse, he listened patiently and respectfully to all that was said, and never talked himself, except to willing listeners."

George Sullivan was established at Exeter as early as 1794, and continued in practice there till his death, in 1838. He said to me, in substance: "Your father's statement of facts to the jury was admirable,—clear, precise, and consistent; giving such prominence to the circumstances favorable to his client, and throwing so artfully those of an opposite character into the shade, that the opposing counsel sought in vain to make the jury see them in any other light. Another characteristic of his speeches was their brevity. Yet he found in them time for the facts, the law, and the morals of the case. For with the facts of the law he always mingled a high sense of moral obligation and responsibility; dwelling strongly on the merits of the parties, and the duty of the jury to do justice,

exact and impartial, between them. It was a temple of justice, high and holy, wherein they stood, into which no feeling of favor or aversion, prejudice or partiality, should ever enter. From the plainest facts and the driest law, he rose insensibly into the higher region of social duty and moral obligation; and thence, as naturally, into the yet more elevated domain of the emotions. If he stirred these in others it was because he seemed himself moved. It was not (so it seemed) that he sought artfully to inflame others, but that he gave an utterance to what they already felt even more strongly than he could excite it. In all this there was no elaborate oratory or premeditated eloquence. But brief, energetic, unexpected, these flashes of feeling came, because, apparently, they could not but come; and having done their office, they passed as quickly away. There was no attempt to make the most of a bright thought or striking expression, as a reiteration of a blow which had already gone home to the mark. It was this simplicity and naturalness which gave the charm to his manner. If there was art in this, it was that perfection of art which conceals itself. No idea of affectation or insincerity ever attached itself to anything which he said or did."

Judge Smith gave me something like the following account: "Your father made little display of mere legal learning; and we sometimes suspected that he

had not much of it to spare. But he had always enough for the occasion, and it would have been by no means safe in an opponent to presume upon his ignorance. *Semper par negotiis, nec supra.* He had the command of much more law than some others who had laid in larger stocks, but had less facility in its use. What he did know he knew thoroughly. Another trait was his promptness and self-possession. Of the many good things which occur to most men only when it is too late to utter them, he had very few. His good things were all on hand; his knowledge ready for use, and always at his command. He said, at once, all he had to say, and said everything at the right time and place. He examined witnesses with great skill, and put his case in the best possible shape to the jury. He made no long harangues; but his brevity was obtained, not by omitting matter pertinent to his case, but by rejecting from it everything which was immaterial. Your friend Woodbury goes over what he has to say three or four times; your father knew how to leave off when he had done. He was fond of quoting Pope; and what Swift says of Pope was true, in some sense, of him:

—— ‘he can in one couplet fix  
More sense than I can do in six.’

Not that we were either of us guilty of framing couplets or perpetrating rhymes. We left that to

Mitchell Sewall, who made epigrams and acrostics on us all. But he had, in rare perfection, the happy art of saying much in a few words. This talent of clear, concise and connected narrative, was best seen when he had a good cause to state; but he told even a bad story so well, that scarcely any case seemed desperate under his management."

Judge Arthur Livermore said to me: "Your father had as much law, when I came to the bar, as any man then in practice in Rockingham or Strafford. He had more than any other man, if Lord Coke's maxim be true, that the common law is common sense, or common reason; for he had more of that than any other man I ever heard address a court or jury. He seemed always right in his law, as if he could not be otherwise. Everything was so clear in his mind, and so well defined in the utterance, that he had no occasion to repeat, or to enlarge upon what he had once said. His manner was quiet, yet lively, with no pomp or swell of language; respectful to the court and confiding towards the jury. He won their confidence by giving them his own. He never seemed to think they could go wrong. They gave him in turn more than he asked, as he often seemed to claim less than he was entitled to. This caution on his part, as if afraid of stating his case too strongly, was one of his arts of oratory. It won for him, by this modest diffidence, the good will of his hearers; and

when he assumed a positive tone, in relation to matters which were more doubtful, his previous moderation gave the greater weight to his present confidence; and he carried the jury over the weak parts of his case with wonderful ease and dexterity. There was not much law in those days among us, as law is now understood, but cases were tried quicker, and, I think, quite as well. I lived at Chester then, and we were often opposed to each other, sometimes not without angry feelings. But they seldom outlasted the day. We often slept in the same room, while at court; and, after talking till almost morning, he would say, 'Enough of this, Livermore, it is time to say your prayers, and go to sleep;' and he would be himself asleep before he had time to repeat a *pater noster*. He was sometimes treated rudely at the bar, as happens to all men occasionally, but his coolness gave him generally the advantage; and when provoked, which was not often, to indulge in angry reply, the retort was so rapid, and the repulse so manifest, that the assailant seldom came a second time to the charge." Judge Livermore, at this time, December, 1852, was in his eighty-seventh year, a remarkable old man, his memory still retentive, and his early liveliness of manner and vivacity of expression but little impaired.

Mr. Mason's account, given to me in more than one conversation on this subject, was somewhat after this



manner: "Your father was not a thorough-bred lawyer, in the sense of having read everything written on the subject. But he understood thoroughly the great principles of the law, and had read carefully, and digested well, the elementary treatises, the standard authorities, and the best of the old reporters. This was, I think, the extent of his law learning. He supplied the want of more minute subsidiary learning by an understanding at once clear and logical, which readily saw the consequences of an admitted principle, and seldom failed to apply it justly; so that when others quoted authorities, it was but to support conclusions to which he had already arrived. I sometimes surprised him by a point of law which was evidently new to him; but, if a little puzzled at first, he soon saw its bearings, what it was worth, and how it should be applied. It was surprising to see how readily the new law-matter thus furnished, fell into its true place in his mind, and became at once a part of his knowledge. This knowledge was not so much an accumulation of dead matter, as it was an organized body, compact, homogeneous, informed with life and motion. He was the best jury lawyer I ever knew. His relation of facts, which might be called his historic style, was inimitable; plain, accurate, and direct; free alike from coldness and unnecessary warmth; adding nothing unimportant, and omitting nothing material to the case. He made

no pompous enunciation of self-evident truths, and was at no pains to prove what he knew the jury would take for granted without proof. He seemed sometimes to admit even more than his opponent could prove. This apparent candor told largely with the jury in his favor; and the admission generally turned out, before the close of the trial, to be either something which he could not well deny, or which, though apparently aiding the opposite party, made in fact, when rightly considered, in his favor. His line of defence exposed the least possible front to an opponent; and he was as prompt to seize on an indiscretion in others, as careful to avoid one himself. With others at the bar I felt," added Mr. Mason, "pretty much at my ease; but your father and Judge Smith compelled me to be more on my guard. Webster had not then come among us. Smith had the greater learning; your father the more availing use of what he knew. The point in which they most resembled each other, was the industry with which they prepared their cases. Your father was always ready for trial; or, if he asked for delay, it was because some material witness was unavoidably absent, or some paper missing which he had in vain sought to obtain; never because he was not himself master of his case."

With Mr. Webster I had several conversations on this subject; the last at Franklin, where I went to

see him, July 16, 1852, a few months before his death. On that occasion he said: "I first heard your father named when I was quite a boy, in 1794 or '5. A cousin of my father's was taken as a deserter, by order of Major Jonathan Cass, the father of Lewis Cass, and carried a prisoner to Exeter, where Cass then resided. The charge was a false one, and my father hastened to the relief of his kinsman. On reaching Nottingham, he called on his friend, Gen. Joseph Cilley, and telling him his story, said that he was going to Oliver Peabody, of Exeter, for a writ against Cass. 'Not so,' said Cilley, 'if you go to Peabody, his dog will run over to Cass's dog and tell him what you are doing, and your cousin may be hurried over the line into Massachusetts before your writ is served. Go to Mr. Plumer, at Epping, and he will do your business for you with no risk of failure.' My father told us this story when he came back with his cousin; and this was the first time I ever heard of the name of Plumer. What most excited my curiosity, however, and puzzled me at the time, was to know how the dogs could talk over their masters' business together, and what they had to do with it. I had not then read Burns's Tale of the Two Dogs, nor do I suppose that Cilley, who was not a bookish man, had seen it when he gave this quaint turn to his shrewd suggestion as to the probable concert between Cass and Peabody, in the case of the sup-

posed deserter. I first saw your father in 1801, at Judge Peabody's, in Exeter, where he took the lead in a table conversation upon the subject of 'Gibbon's Roman Empire,' which he greatly admired, yet with a due mixture of fault-finding. I remember his also speaking of the Edinburgh Review, and of Mr. Jeffries, both just then becoming conspicuous. Your father was supposed to be good at taxing bills of cost. In a case where he and Mason, both on the same side, had at last won a long contested suit, the bill, taxed by your father, and allowed by the clerk, was objected to by the opposing counsel. Mason, who had a lawyer's liking for fees—I do not dislike them myself—stoutly defended the taxing; and, when the court struck out some of the items, he lost his temper, and abused them roundly for it. Your father, seeing that this was no way to secure the bill, whispered to Mason to keep cool, and said aloud, 'Perhaps I can explain this better.' Addressing himself to the court, he put them at once into good humor by some slight reflection on his brother Mason's loss of temper, and not only succeeded in preventing any further abatement of the bill of costs, but restored the items already stricken out, and even got in one or two new ones. This, though a small matter, was not a bad sample of his usual coolness, sagacity, and power of setting whatever he took in hand in the clearest possible light. The same qualities were shown by

him on more important occasions. In the management of his cases before the jury he displayed great skill, in other words, great knowledge of human nature. Indeed, I never knew a man who put his case better, or who was more uniformly successful, where there was any tolerable chance for success. There was a concentration of purpose in him which contributed greatly to this result. He never sacrificed the safety of his client to oratorical display; nor indulged his resentments at the expense of his cause, nor turned indeed for a moment from the great object in view, the winning of his verdict from the jury. He put no questions to witnesses which were not calculated to bring out a favorable answer, and used no argument which was not at once seen to bear directly on the point to be established. Neglecting all minor objects, he struck boldly at the heart of the matter; told his story without repetition, or exaggeration, and so clearly, that nobody could mistake or misunderstand him. Once stated, indeed, his case was already, by the mere statement, well argued. When the occasion required it, he could touch powerfully the chords of feeling in the breasts of the jury, with the slightest apparent effort on his own part,—sometimes with the thrilling intonation of a single word, a look, a gesture, the cast of his eye, suffused with tears at the misfortunes of his clients, or fired with anger or indignation at the injustice,

the tyranny, the insufferable baseness of his opponent and oppressor. It was the eloquence of feeling, rather than of the fancy or imagination;—of the latter, except as connected with feeling, he did not seem to me to possess much.”

Wit is often among the lawyer's most successful weapons. My father could hardly be said, in the ordinary sense of the word, to be a man of wit. Yet he said things which no wit could improve, and no humor render more effective. In those keen retorts, those pithy and pointed sentences, which strike home and admit of no reply, which rouse the feelings while they convince the understanding, he was always ready. On such occasions the flash of his eye showed whence the lightning had parted, and the smile, which curled his lip, evinced his perception that the bolt had not missed its aim. If, in such cases, the wit was less observed, the argument was the more strongly felt. The power thus to condense a long speech into a brief sentence,—to coil up, as it were, a whole argument into a single word, and send that word home to its mark, where it shall explode in a charge from the court, or a verdict from the jury,—is the rare attribute of the eloquent and effective speaker. This felicity of speech and concentration of thought, were at the farthest possible remove from that vague and indefinite utterance, that copious effusion of words without ideas, with which so many public speakers

seem afflicted. It rested, in his case, on the firm basis of accurate knowledge, and thorough previous preparation. He did not think it sufficient to have a general idea of his cause, and trust to chance, or a happy flight of oratory to carry him through ; but he made himself master of its details, and familiar with the law applicable to it. This he did in cases even the least important. If they were worth carrying into court, he thought them worth the best attention he could bestow upon them.

The practice of the law in his earlier days was calculated to make able advocates, rather than learned jurists. Both court and jury were, as I have already remarked, more inclined to make than to find the law of the case. My father was among the first to perceive the necessity of a closer adherence to established rules. He left the courts, however, while the change was as yet but imperfectly accomplished. But a revolution was in progress, which ended in establishing more precise maxims of practice and strict principles of law in New Hampshire, than prevailed, perhaps, in any state of the Union. Mr. Webster, after having practised in the courts of many states, said, "that he had never found any place where the law was administered with so much precision and exactness as in the County of Rockingham." "Special pleading had not then," says Chief Justice Parker, in commenting

on this remark, "been shorn of its honors, by brief statements and informal answers." At one time, indeed, there was a strictness of practice here, hardly compatible with the ends of justice; but the tendency has since been to that happy medium in which fixed rule takes the place of arbitrary discretion, while justice, though regular, is yet not tangled in the net of form.

Of the extent of my father's business while at the bar, and the consequent amount of his emoluments, it is not easy now to form an accurate estimate. His account-books of this period were destroyed by him many years ago, with a multitude of other papers, which he considered it no longer necessary to preserve. In the counties of Rockingham and Strafford, then embracing the business of more than half the state, he was for many years concerned in more suits than any other lawyer. But lawyers' fees were then much lower than at present. Even now they are not considered by the profession as high, and certainly are not so, when compared with those in some other states. Webster, after his removal to Boston, received in single cases, probably, more than his net income for a year of labor in New Hampshire. Mason once said to me: "The Boston people pay well for professional services. It is not a bad trait in their character, and I rather encourage them in it. Your father and I did business enough in our day to make



us rich ; but, in New Hampshire, much is done for a little money. No man gets rich there by professional services." My father, though he owned a half-finished house and some land, was in debt when he was admitted to the bar. He told Judge Livermore, in 1797, that his business was then worth four thousand dollars a year. To have earned this, Livermore supposed he could not have made less than five hundred writs annually. The courts sat four times a year, and he once told me that he had entered a hundred actions at a term. He was not indifferent to money ; for he knew that no man could be truly independent without it, and that without independence there is little security for happiness, and not much for virtue. Yet he had so little of the miser in his disposition, that, for the last forty years of his life, he did nothing in the way of money-making. He took care of what he had already earned, but felt no desire to increase it,—so that at his death his property was no greater than when he left the bar. His habits of living were prudent, but not parsimonious ; free from profusion on the one hand, and meanness on the other. There was no ostentatious display of wealth in person, equipage, or attendance ; but use, comfort and convenience were consulted in his arrangements ; and the friend, or the stranger, who visited him, found a ready hospitality, a simplicity, an abundance, and a cordiality of welcome, which supplied every want, and left no doubt of the host's sincerity.

## CHAPTER VII.

### THE SENATOR.

THE civil revolution, which gave the power of the general government to the Republican party, was consummated by the inauguration of Thomas Jefferson as President, and Aaron Burr as Vice President, on the 4th of March, 1801. The leading measures of the Federal party,—the funding system, the bank, the proclamation of neutrality, Jay's treaty, the internal taxes, the army, the navy, the alien and sedition laws,—had all of them been more or less unpopular. The strong personal popularity of Washington alone secured to the measures of his administration a majority in either House of Congress. While nearly all professed unbounded admiration for the person of the President, a strong and increasing opposition manifested itself to his leading measures; many of which were carried by small majorities, often by the casting vote of the Vice President in the Senate, and in the House, on several occasions, on nearly as close a division. On the retirement of Washington, the great abilities, high public spirit, and patriotic services of his successor were unequal to the task of opposing

successfully the current of public opinion, setting strongly in favor of the doctrines and the policy, the men and the measures, of the Republican party. The inaugural address of Mr. Jefferson was, indeed, so moderate in its tone, and so well received by all parties, that the whole Senate went in a body, harmonious, in appearance at least, to pay their respects to the President and Vice President, and were received, says Mr. Bayard, "with very decent respect," the Federalists professing their willingness to support the government, if administered upon the principles of that address. But though Mr. Jefferson had said in his address, "We are all Republicans, we are all Federalists," it was not possible that parties so hostile in feeling, and so adverse in opinion and practice, could act harmoniously together. Both were too earnest and sincere, the one to withhold the expression of their opinions, the other to forego the exercise of their power in the line of their opinions.

The first session of Congress, under the new rule, had been signalized by some reduction of the army and the navy, the repeal of the internal taxes, an increased provision for the public debt, a return to the naturalization law of 1795, and the repeal of the late judiciary act. This last was regarded as the great measure of the session, involving questions of constitutional power, as well as of expediency. These, with the removal of some Federalists from office, and

the appointment of Republicans in their places, were the chief changes which had yet followed the election of the new President. A second session was now about to commence.

The journey from New Hampshire to Washington was not usually performed, at this time, in less than ten or twelve days. In the feeble state of my father's health, this journey excited in his mind apprehensions, which we should hardly have expected in one of his resolute temper and active habits. For fifteen years he had been nearly half his time away from home; but never for more than a week or two at a time; and seldom so far off, but that he could return in a single day. A service of three or four months, five hundred miles from home, put his local attachments and domestic feelings to a severe test. My mother, who was still more domestic in her habits, would have thought the leaving of five children to the care of strangers for so long a period, little less than a crime. "On leaving my family," he says, "and parting with my oldest son, then at Exeter, I was much affected. The length of the journey, the uncertainty how the climate and mode of living would agree with me, and what changes might happen in my family, produced feelings I never before experienced." He left Epping on the 18th of November, and reached Washington on the second of the following month. In a letter to Judge Smith, (December 9th, 1802,) he says,

“I arrived here last Friday, much less fatigued than I expected. The journey was easy, and gave me the pleasure that results from eating with the appetite of a hungry man—a pleasure to which till then I was a stranger. The next day after my arrival I visited the President, accompanied by some Democratic members. In a few moments after our arrival, a tall, high-boned man came into the room. He was dressed, or rather undressed, in an old brown coat, red waistcoat, old corduroy small clothes much soiled, woollen hose, and slippers without heels. I thought him a servant, when General Varnum surprised me by announcing that it was the President. I tarried with him about twenty minutes. He was easy of access, and conversed with great ease and freedom. While I was there, Thomas Paine entered, seated himself by the side of the President, and conversed and behaved towards him with the familiarity of an intimate and an equal! Can virtue receive sufficient protection from an administration which admits such men as Paine to terms of intimacy with its chief?”

This intimacy of Jefferson with Paine seems to have struck him very unfavorably. He adverts to it in several of his letters. To T. W. Thompson, he speaks of him as, “that outrageous blasphemer.” To D. Lawrence, he writes, (December 27th,) “The President, in his message, informs us of our quiet enjoyment of our religion; at the same time that he has had the effrontery to invite that infamous blasphemer, Thomas Paine, from France to this country, and even to give him a passage in a national vessel.

He admits him freely and frequently to his house and his table." To Jeremiah Mason, he wrote, "Bradley (as Vice President *pro tem.*,) is giving dinners; and in imitation of the President, admits that miscreant Paine to his table. Neither Jefferson nor Bradley invites Federalists to dine with Paine. In this they show their prudence." Paine's merits, in the eyes of his admirers, were supposed to be twofold; his attacks on Christianity, and his abuse of Washington. My father, admitting the force of some of Paine's objections, had read his "Age of Reason" with unqualified disapprobation of its tone and temper, its coarse vulgarity, and its unfair appeals to the passions and the prejudices of his readers. With his attacks on "Mr. Washington," he had, if possible, less sympathy. Hence the surprise and indignation with which he saw such a man courted by the President, and received with distinction as a guest at the presidential mansion. It deepened his prejudices against Mr. Jefferson, already sufficiently strong. Bred a Federalist, in the school of Washington, he had been taught to regard Mr. Jefferson as a man of loose morals and erroneous political opinions, and looked with great distrust on the measures and policy of his administration.

He took his seat in the Senate on the first day of the session, (December 2d, 1802,) but was not able to take the affirmation of office, till the 14th, when

the two Houses were organized, Congress not having then acquired that habit of punctuality, which now always secures a quorum of both Houses the first day of the session. The leading Republicans in the Senate were Clinton of New York, Nicholas of Virginia, Baldwin of Georgia, and Breckenridge of Kentucky; the leading Federalists, Tracy and Hillhouse of Connecticut, Morris of New York, and Ross of Pennsylvania. The administration had a decided majority in both houses, and was able therefore to carry any measure on which its friends were united. The strength of the executive department was chiefly in three men,—Jefferson, the President, Madison, the Secretary of State, and Gallatin, Secretary of the Treasury,—a combination of talent, power, and popularity, not often surpassed in the administration of the government.

The slow progress of business through the Senate left my father much leisure, which, with his usual industry, he employed in making himself acquainted with the new scenes into which he was introduced, and the distinguished actors on this more extended theatre. He began with exploring the city itself and its environs. Washington was then “a little village in the midst of the woods.” “It contains,” he said, “many fine sites for buildings, but comparatively few houses, and those not compact.” This city of magni-

ficent distances was indeed then little better than a wilderness; with few of the conveniences, and hardly all the necessities of civilized and refined life. He explored with greater eagerness the congressional library; which, though not large, contained many valuable works in history, politics and international law, to which he had not before had access. He devoted much time, during this and the succeeding sessions, to the reading of books which he found here, making copious extracts, and, in some cases, abstracts of their contents. He did not however neglect, for books, the acquaintance of men. The violence of party spirit made the members, at this time, unsocial, and even uncivil to one another. Federalists and Republicans not only boarded in different houses, but seldom visited or associated together. "Men," said Jefferson, speaking of an earlier period, "who have been intimate all their lives, cross the street to avoid meeting, and turn their heads another way, lest they should be obliged to touch their hats." He had not himself been able to introduce a better state of feeling. This social intolerance was very distasteful to my father. In a letter to my mother, (Dec. 25th,) he says:

"Yesterday, I dined with the President. His rule is to have about ten members of Congress at a time. We sat down to the table at four, rose at six, and walked immediately into



another room, and drank coffee. We had a very good dinner, with a profusion of fruits and sweetmeats. The wine was the best I ever drank, particularly the champagne, which was indeed delicious. I wish his French politics were as good as his French wines ; but to me, at least, they have by no means so exquisite a flavor. At these dinners, the President has always a select company ; all federalists one day, all democrats another. He ought to invite them without regard to their political sentiments. The members of both parties, meeting at the President's, would be under the necessity of being civil to each other there, and would thence learn to treat each other with more decency and respect in congress than they now do. The more men of good hearts associate, the better they think of each other, notwithstanding their differences of opinion."

Having himself little of the party rancor, out of which such alienation had grown, he labored to break through these unsocial barriers. Before the close of the session, he was upon speaking terms with nearly all the members of both houses, and intimate with many of the most distinguished of both parties. His mind could not fail to be improved, and his views modified and enlarged by this enlargement of his sphere of vision and range of thought. He was a Federalist, with a full share of party feeling. But he was not a mere party man ; and would not follow blindly any party leader. In the case of private claims, "I am not sensible," he writes, "that party

considerations had any influence on my mind. On these I voted as often with the Republicans as with the Federalists." He acted indeed in this, as in other cases, under a sense of moral obligation.

He wrote many political letters, during this session, to his friends in New Hampshire, with too close a party reference and purpose, as he afterwards thought. "Being in the minority, I was," he says, "too much inclined to find fault with the measures of the majority, and thought the principal service I could render my country was to prevent the adoption of their measures." Extracts from some of these letters may be interesting, either for the facts they contain, or the opinions they express.

To D. Lawrence of Epping, December 27, 1802 :

"The southern Democrats fear New England Federalism. Though our numbers are small, we are both feared and respected. We can seldom carry any measure; but we prevent the ruling party from doing much mischief. I consider the steady habits and Federalism of the Eastern states as the sheet anchor and political salvation of the nation."

To T. W. Thompson of Salisbury, January, 1803 :

"Though few, we are a check upon the ruling party. The longer I am here, the more sensibly I feel the necessity of preserving, if possible, the Federalism of New England, as a restraint upon Southern Democracy. The good sense and steady habits of the Eastern states will be the means of pre-

serving our liberties, if they are to survive the violence of parties."

He wrote, during this session, frequently to Thompson ; and Daniel Webster, who was then a student in his office, told me, many years after, how eagerly he himself awaited the arrival, once a week, of the post, in hope of a letter from Washington, and, when it came, how earnest the little knot of village politicians were to learn its contents. Thompson was afterwards himself Senator in Congress.

To Nicholas Emery of Parsonsfield, afterwards Judge of the Supreme Court of Maine, January, 1803 :

"The Democratic party want an acknowledged, bold and determined leader in the House. Giles is sick at home. John Randolph, a pale, meagre, ghostly man, has more popular and effective talents than any other member of the party ; but Smith, Nicholson, Davis and others are unwilling to acknowledge him as their file-leader. The Federalists, though in a minority, are yet in talents, industry, and respectability, superior to their opponents. I think the session will end without violent measures."

To Mr. Mason, under the same date :

"Griswold of Connecticut, is at the head of the Federalists in the House. He is a man of talents, industry, and application, and of a most amiable disposition. Bayard has not yet arrived. The Democrats feel the absence of Giles. Randolph

has more talent than any other man of that party; but they are unwilling to own a leader, who has the appearance of a beardless boy more than of a full grown man. The session is wasting away, and, though we have done no good, we have not committed much evil. The little *Burr* has not yet appeared."

To John Taylor Gilman, January 18th, 1803:

"The President has nominated James Munroe, Envoy Extraordinary to the Courts of Paris and Madrid, to treat, in conjunction with our ministers there, upon the navigation of the Mississippi, and the purchase of Louisiana. To this appointment there was a serious but unavailing opposition in the Senate. The vote was fifteen to twelve. The Senate do not decide whether the mission is necessary. The President alone is considered responsible for that. They decide only on the qualifications of the man, not on the propriety of the measure. Yet the man whom Washington, after a full trial, thought it necessary to recall from France, is again appointed to the same court, a court which holds in contempt the Jacobins to whom he was then so much attached. But the measures of Washington are to be reviled, his admirers wounded, and a new order of things established. The more I see and know of these men, the more I am confirmed in the opinion that the Federalists are the real friends of their country, and their measures the best calculated so secure its peace and prosperity."

The most important subject which came before Congress this session, was the refusal of the right of

deposit at New Orleans, by the Spanish authorities there. By the treaty of 1795, with Spain, it was stipulated that the United States should be allowed "to deposit their merchandise and effects in the port of New Orleans, and export them thence, without any other duty than a fair price for the hire of stores." The Spanish Intendant had issued a proclamation (October 16, 1802,) taking away the right till then possessed, and assigning no other place of deposit on the river. The uneasiness produced by this measure among the people west of the mountains, who, from a few inconsiderable settlements, had increased to half a million of inhabitants, was great and universal; and it was evident that some remedy for the wrong sustained must at once be supplied. The remedy proposed by the Federalists was to seize at once on New Orleans, by force of arms, before it should be taken possession of by France, to whom the country had just before been ceded by Spain. "France," said Morris, "will not sell this territory. If we want it, we must adopt the Spartan policy, and obtain it by steel, not by gold." The President, on the contrary, was in favor of the more pacific policy of negotiation, and purchase of territory. The House passed resolutions expressing their determination to maintain the rights secured by the treaty, and referring the whole subject to the action of the President. In the Senate, Ross of Pennsylvania offered resolutions (February

10, 1803,) authorizing the President to take possession of New Orleans, and for that purpose to call out, if necessary, fifty thousand of the militia of the adjoining states; to pay the expenses of which, he proposed that five millions should be appropriated. As a substitute for these, Breckenridge of Kentucky moved resolutions, February 23d, referring the subject to the President, with authority to call on the Governors of the states for eighty thousand volunteers, to be held in readiness to march at the order of the President. After an animated debate, Ross's resolutions were stricken out, by a strictly party vote, and those of Breckenridge were then unanimously adopted. A law was soon after passed to carry them into effect. By another law, passed in secret session, two millions were appropriated for the extraordinary expenses of the foreign intercourse, with a view to the purchase of the island of New Orleans and West Florida.

The following extracts of letters show my father's views on this subject. To Jeremiah Smith, January 9th:

"On the 4th of December, the President stated to me personally the fact of the violation of our treaty with Spain, but in his annual message of the 15th to Congress, he takes no notice of it. The truth, if exhibited in this case, would have disfigured the beauty of his picture of peace and prosperity,

and presented some things to excite our fears as well as our hopes. Congress ought to publish a declaration that Spain has violated her plighted faith ; to authorize the President to raise a provisional army, and to man and equip our little navy ; and, in case negotiation should not succeed, to take possession of New Orleans. Indeed, I think we should be justified in immediately seizing on that city. But the ruling party are alarmed, and have not resolution to act. They fear the approaching election. Randolph said the other day in the House, ‘The Federalists wish to drive us into a war, to dissipate our treasures, and obtain for themselves the direction of the government.’ This declaration is strong proof of the fears of the administration. They fear that bold and decisive measures will produce war, and that taxes, increased duties, and new loans will follow. How contemptible and wretched is the man, who, at the expense of honor and conscience, obtains an office, and cannot then pursue his own course, but must adopt such measures as will please the unthinking populace ! From such a disposition, and from an office thus obtained, *Good Lord deliver me !*”

To the same, February 16 :

“Mr. Ross introduced his resolutions to the Senate in a speech of nearly two hours, far exceeding anything I ever witnessed in a deliberate assembly, not abounding in tropes and figures, and the flowers of rhetoric, such as flow with so much ease and grace from the lips of Gouverneur Morris, but a continued chain of reasoning, forcibly addressing itself both to the heart and the understanding.”

To T. W. Thompson, February 18th:

“ You have seen an account of the weak and feeble measures that the administration have adopted, respecting the violation of the Spanish treaty. The Federalists were for taking immediate possession of New Orleans, and using it, as our treaty provides, for a place of deposit. Enclosed are Mr. Ross’s resolutions. His introductory speech was one of the ablest I ever heard. I have reason to believe that the administration is divided upon this subject. From the chief, a man of weak nerves, we have no right to expect energetic action. Wavering, indecisive, half-way measures will probably be the result. The measures debated and adopted in conclave would, if known, alarm considerate, reflecting Democrats. A Committee of the House has this day reported that Judge Pickering, of New Hampshire, be impeached of high crimes and misdemeanors in office. In conversation with the President, this day, he said to me: ‘It will take two years to try this impeachment. The Constitution ought to be altered, so that the President should be authorized to remove a Judge from office, on the address of the two Houses of Congress.’ ”

Speaking at a later period on this subject of the right of deposit at New Orleans, my father wrote: “After hearing the arguments on both sides, and considering the subject, I had some doubts of the propriety of adopting Ross’s resolutions; but my pride was enlisted in their support; for I had early written to some of my correspondents that I was in favor of



them. Party considerations had also an influence on my mind; and I reluctantly voted against striking them out." This was the first very important matter, during the session, in which a strong party feeling manifested itself in the Senate, and though on the main question he had hardly independence enough to break at once from his party, and from his own previous declarations, he showed, on an incidental question, that he could act, as well as think, independently of party dictation. After two or three days spent in debate, the Federal Senators had agreed, at eight o'clock in the evening, not to vote for an adjournment till the question was taken. Mason of Virginia, stating that he wished to speak, but from ill health could not do it, at that late hour, moved an adjournment.

"I thought," wrote my father, "the request reasonable, and voted for it. Gouverneur Morris was offended, and privately censured me for my vote. I told him I had acted towards Mason as I should have wished him to act towards me; and that, on so important a subject, I was willing to spend another day. He replied: 'When a man has resolved to act only according to the convictions of his own mind, the party to which he belongs can never depend upon his support; and I shall not be surprised, if, in a few years, you act more like a Republican than a Federalist.' I replied, that I could not say what I might hereafter become; but I trusted I should never act contrary to my own judgment, to support

either party. He said, 'No man can maintain in political life such an independent course.' I replied, 'I shall fail then as a public man, and return again to private life.'"

Federal in his opinions, he acted generally with his party; but, independent in his judgments, he allowed no one to think for him, where it was his duty to think and act for himself. Time showed that the President's plan of securing New Orleans by purchase was safer than the Federal one of seizing it by force. Yet there was great weight in the idea that, if it passed into the hands of Napoleon, it could be obtained from him only at the expense of a war with France. Its possession by either France or England would have seriously endangered the security and essential interests of the United States. The President was keenly sensible to the danger from this quarter; as his views of policy required, above all else, a good understanding with France. "There is," said he, "one spot on the globe, the possessor of which is our natural and habitual enemy. That spot is New Orleans. France, placing herself in that door, assumes to us the attitude of defiance." On my father's presenting to him (February 26th), as Chairman of the Committee on Enrolled Bills, the act intended to authorize the purchase of New Orleans, he said: "A great point is now gained; a new precedent established in our government—the passage

of an important law by Congress, in *secret session*. They ought to have passed, some years since, the law respecting Algiers in the same manner."

Two or three other extracts will bring us to the close of this session. He wrote often to his wife and children; and I had myself many letters from him during the session. February 22d, he says, in a letter to me:—

"The members of the House sit with their hats on, but take them off when they speak. It has rather an odd appearance to see the House covered, and the Senators, and Heads of Departments, who frequently go in to hear the debates, with their hats in their hands. Mr. Randolph goes to the House booted and spurred, with his whip in his hand, in imitation, it is said, of members of the British Parliament. He is a very slight man, but of the common stature. At a little distance he does not appear older than you are; but upon a nearer approach you perceive his wrinkles and grey hairs. He is, I believe, about thirty. He is a descendant in the right line from the celebrated Indian princess, Pocahontas. The Federalists ridicule and affect to despise him; but a despised foe often proves a dangerous enemy. His talents are certainly far above mediocrity. As a popular speaker, he is not inferior to any man in the House. I admire his ingenuity and address; but I dislike his politics."

To Judge Smith, February 23d:

"Burr presides in the Senate with great ease and dignity. He always understands the subject before the Senate; states

the question clearly, and confines the speakers to the point. He despises the littleness and meanness of the administration ; but does not distinctly oppose them, or aid us. It is his object to detach from the two parties enough to constitute a majority in his favor. He frequently touches a subject in conversation with the skill of a master. But, with all his cunning, he will find it a difficult task to inspire confidence or esteem. His arts have alarmed the fears and awakened the jealousies of the President."

February 26th :

"The dark complexion, and something in his look and manner, gives one the impression that Mr. Hillhouse of Connecticut has Indian blood in his veins. He and Wright of Maryland have frequent collisions. The latter said to-day : 'I would not repine at being stricken down by the thunder-bolts of Jove (looking towards Morris), but I will not submit tamely to be mangled by the tomahawk of this son of Alno-mac,' pointing to Hillhouse. The latter, by a sudden motion, seemed as if springing on his foe, who dropped as suddenly into his seat, amidst the suppressed laughter of the Senate, to which the straight, up-drawn gravity and assumed unconsciousness of the Connecticut Senator gave full effect."

Hillhouse had acquired at home the title of the Sachem ; and his son has since, with great good taste, given to his beautiful paternal seat, in New Haven, the name of the *Sachem's Wood*—a name referring at once to his father, and to the tradition of

an early Indian residence on the spot consecrated to fame by his own gifted pen.

March 3d :

“ A severe indisposition would have excused me from the Senate this day ; but pride and a sense of duty induced me to attend. The House had passed the bill to reduce the marine corps ; and to-day was assigned for its third reading in the Senate. More than one of my Democratic friends took occasion to inform me that the weather was peculiarly unpleasant, and that my chamber was better suited to so sick a man than the Capitol. But, regardless of their friendly monitions, I tarried ; and, at six in the evening, the bill was postponed to the 4th of March next. This is a triumph to the Federalists.”

To his wife, March 3d :

“ To-morrow morning I shall begin my journey to Epping, and hope to reach home in about a fortnight. There is one circumstance attending my departure from this place which sensibly affects me, and has very much depressed my spirits. It is that I am to part from friends that I shall probably never see again. Not to mention others, I shall not find, if I return to this place in November, Morris and Ross in their seats,— Morris, the greatest orator I ever heard ; Ross, the logical reasoner and impressive speaker. No more will their instructive conversation inform my mind, nor their gentleman-like conduct polish my manners. They are men of great talents, of much and varied information, and of strict integrity. I shall ever consider it one of the fortunate circumstances of

my life, that I have had an opportunity to connect myself with them. What a pity that the rage of party should exclude such men from our national councils! The injury done is to the country, and not to my friends. I have only time to add that I am well, and shall hasten to your presence with increased pleasure, after so long an absence."

Another strong motive for a speedy return was the ill health of his father, whom he hardly expected to find alive.

"Congress adjourned," he writes, "at midnight, on the 3d of March; and early the next morning I took the stage for home, which I reached safely and in good health on the 13th at noon. My father was alive; and I hastened immediately to visit him. On my entering the room he revived. His mental faculties were clear and strong; and after conversing with me for some time, inquiring how I had enjoyed my health, and what were our national prospects, he wished me, as night approached, to retire and take some rest, as I had travelled day and night. I had been in bed but a little time, before I was sent for, and again visited him. Just before the day dawned, on the 14th of March, 1803, in full possession of his reason, with calmness and fortitude, he expired without a struggle, in the eighty-second year of his age. It afforded me some consolation, though a melancholy one, to be present at his dissolution."

His conduct towards his parents had always been that of the most respectful tenderness. He never ceased to express for them the utmost filial reverence

and love. Years after, on reading the touching line of Cowper,

“The son of parents passed into the skies,”

he paused, closed the book, and said feelingly: “My case, that is truly my case—‘The son of parents passed into the skies,’” repeating the line with an emotion which brought tears into his eyes.

During the recess he spent his time pleasantly in the society of his friends, visiting and being visited, and devoting his leisure, in the intervals of study, to rural occupations. On the first of October, he again set out for Washington, which city he reached on the 14th. The President had summoned Congress to meet on the 17th, on account of the treaty which had been formed for the purchase of Louisiana. The treaty and conventions were at once laid before the Senate for their action. The two millions, appropriated at the last session, had been intended for the purchase of the territory east of the Mississippi, comprehending the island of New Orleans, and as much of the Floridas as could be obtained. The times were peculiarly favorable for the success of the negotiation. France was on the eve of a war with England, whose naval superiority gave her easy access to Louisiana, and made the reduction of it by that power, in the event of war, almost certain. Napoleon was glad to find for his newly acquired territory a purchaser, who

would not only keep it from his enemy, but pay him for it besides. Instead, therefore, of the small portion which alone the President sought to acquire, he offered the whole territory for fifteen millions,—a sum which, though it seemed large to those who were opposed to the purchase, and was at the time made the subject of much ill-founded clamor, was in truth a mere trifle compared with the value of the country ceded. The treaty was signed, April 30, 1803. It now came before the Senate for ratification; and here difficulties, not altogether imaginary, rose in the way of its adoption. As to the title, the Federalists contended that the treaty was a mere quit-claim of the right of France; and that it did not appear that France had complied with the condition on which alone Spain had agreed to cede it to her. The treaty of St. Ildefonso was not in itself a cession, but an agreement to cede under certain circumstances. In point of fact, the country was still in the possession of Spain; and the Spanish minister here had entered his caveat or protest with our government against the transfer, as invalid. There were also provisions in the treaty, respecting the admission of French and Spanish vessels into the territory, and the rights of the inhabitants under it, which were thought by many to be contrary to the Constitution. But the great objection was to the acquisition by the United States of any territory whatever.,



under the obligation to admit it as a state into the Union. The Constitution, it was contended, was formed for the government of a certain known and defined territory, called the United States, and could not be extended to any other territory, without an amendment of that instrument, providing for such extension, nor, as some contended, without the consent of each of the states. These objections did not, however, prevent the ratification of the treaty (October 20th); yeas 24, nays 7. The nays included all the Federalists present. My father was among them. He held that the treaty contained virtually a stipulation to admit the territory as a state into the Union; and that, Congress having no right to do this, the Senate could not ratify a treaty which the government itself had no power to execute. This unconstitutional character of the treaty was admitted by many in the debate, and particularly by Taylor of Virginia, who "confessed that the treaty was a violation of the Constitution, but declared that he would ratify it, and throw himself on the people for pardon, and on Heaven to absolve him from the violation of a trust he had sworn to maintain."

"While the question was depending in the Senate," says my father, "I called upon Mr. Jefferson, and had an hour's free conversation with him. In the course of it, he inquired what my opinion was respecting the treaty. I answered, I

thought we had no constitutional authority to make and execute such a treaty. He said that was precisely his opinion ; but that after it was ratified the Constitution could be altered, so as to authorize Congress to admit the country into the Union. 'The Constitution,' he said, in a letter to one of his friends, 'has made no provision for our holding foreign territory ; still less for our incorporating foreign nations into our Union. Congress will be obliged to ask from the people an amendment of the Constitution, authorizing their receiving the province into the Union, and providing for its government.' The draft of such an amendment was prepared by Mr. Madison ; but, as it was doubtful whether it would be adopted by the requisite number of states, it was never formally proposed, though still talked of as necessary."

When the subject came before the House, the same objections were made to the treaty as in the Senate. "The union of the states," said Roger Griswold of Connecticut, "is formed on the principle of a copartnership, and it would be absurd to suppose that the agents of the parties, the general government, who have been appointed to execute the business of the compact, in behalf of the principals, the states, could admit a new partner, without the consent of the parties themselves. The treaty, therefore, so far as it stipulates for such an incorporation, is void."

This violation of the Constitution, acquiesced in from its apparent utility in the present case, was regarded, in 1819, as a sufficient authority for the

acquisition of Florida, by treaty ; of Texas, by resolution of annexation, in 1845 ; and of large portions of Mexico, by conquest and purchase, in 1848 ; till it seems to be now settled as constitutional law that any extent of foreign territory may be acquired by the general government, and must, when so acquired, be admitted into the Union upon an equal footing with the original states. It is among the instructive lessons of our history that this claim of an unlimited power to acquire territory and admit states, is the act of those who pride themselves on being strict constructionists ; and that under it they have added to the Union territories much more extensive than the whole of the original states. This has been done by those who deny the right of Congress to establish a bank, to make internal improvements, or to enact a protective tariff. The undeniable importance of possessing the outlet of the Mississippi made the acquisition of a portion of Florida and Louisiana desirable ; and this was the extent of Mr. Jefferson's original design. But the prize was too dazzling to be rejected when half a continent was offered to his cupidity ; and constitutional objections had, in this case, little weight with the mass of the people. Sagacious men, indeed, looked forward to the day when, by the filling up of this territory, the balance of power would be transferred from the original states to this once alien country, and both the North and the

South would sink into subjection to the power thus created. My father regarded it as a virtual dissolution of the Union, and held that it was optional with any of the old states to say whether they would longer remain in the present confederacy, or form new ones more to their liking. Twenty-five years later, he said, "I still think the ratification of that treaty was the most direct and palpable violation of the Constitution, of which Congress has ever been guilty." Yet, when it had been thus ratified, he thought himself bound to vote for the stock created to pay for the territory, as provided by the treaty. In this he differed from his Federalist friends, who all voted against the bill, except John Quincy Adams. He had just then taken his seat as a Senator from Massachusetts, and with him my father contracted a friendship which ended only with their lives. They voted together on this occasion, as on many others which followed. They both voted against the bill for taking possession of the territory, as containing provisions which they deemed not only inexpedient, but unconstitutional.

The last presidential election had, in the opinion of many, revealed a defect in the Constitution, which required amendment. The Constitution provided that each Presidential elector should vote for two persons; the one having the highest number of votes to be President, and the one having the next highest to be

Vice President; and in case there was no choice by the people, the President was to be chosen out of the five highest candidates, by the House of Representatives, voting by states; and the Vice President, by the Senate. At the last election, no person having received a majority of all the votes, the two highest candidates were Jefferson and Burr, who had each received the same number of electoral votes. The choice of President thus devolving on the House, it was not till the thirty-sixth ballot, at the end of a seven days' session, that Jefferson was chosen President; the Federalists having voted at all the previous ballotings for Burr. An amendment of the Constitution was now proposed, designating the office for which each person was intended by the electors, and providing, in case there was no choice by the electors, that the President should be chosen by the House, out of the three highest candidates. Though at first some doubts had been expressed by individuals on both sides, as to how they should vote, it soon became a party question, all the Republicans but one voting for, and all the Federalists against, the proposed amendments. After various alterations had been proposed, some of them adopted, and others rejected, the resolutions took their final form, and the debate on the main question commenced. My father delivered his sentiments on the subject in a speech of nearly two hours. An abstract of this speech would

occupy too much room here ; but some portions of it may be noticed, either as important in themselves, or from their connection with the author. After explaining the only modes by which amendments could be made, and drawing from the difficulty of the operation a caution against hasty action, he contended that "the two-thirds of both Houses of Congress" required, to propose an amendment, meant, "not two-thirds of those who may happen to be present and vote on the question ; but two-thirds of all the members of each House, whom all the states have a right to elect." To sustain this construction he quoted several other clauses in which the expression, "two-thirds of both Houses" had evidently this meaning, while in cases where the meaning is different, the phrase is changed to "two-thirds of those present." "If two-thirds of those present can propose amendments to the Constitution, it follows that twelve Senators, when only a quorum is present, may propose them against the will of twenty-two Senators." This distinction was a material one in the present case, and, if sustained, would have been fatal to the success of the measure ; as it was well understood that no such majority could be obtained in either House. He denied the right of the state Legislatures to instruct Congress on this subject.

"We are not sent here," he said, "for the purpose of registering the public opinion. Our duty is to obtain the

best information we can, and then to act according to our own judgment of what is right and proper. I do not say that the states may not, in some cases, instruct their Senators and Representatives. I only say that it is improper, in this case, that those who are to ratify the amendments proposed should instruct us in the first instance what amendments to propose. It is the assumption of power, and not the exercise of right. As well might a petit jury instruct a grand jury to find a bill against a particular individual, and send it to them for trial. It is judging before the time, and under improper influences. See too in what a vicious circle it involves us. We are called upon to propose the amendments, because some four or five state legislatures, my own among the rest, have so instructed us; and when we have done it, the legislatures throughout the Union will be told that they must adopt them, because Congress, in its wisdom, has seen fit to propose them. We, because they have done it; they, because we have; with no independent action in either case. Thus the measure is to be carried by this irregular influence of one body on the other. If such instructions are obligatory, we are mere machines; and our votes must be governed, not by the convictions of our own minds, but by the sovereign mandates of state legislatures. I do not so understand the nature of my office, nor my duty in it. The people themselves established the Constitution, giving us certain rights under it, and these we are bound to exercise, according to our own judgment, without interference from others. In so doing we obey, in the highest possible sense, the voice of the people. Any other expression of that voice may be a true or a false one; this only is authentic and obligatory, the official and sole constitutional expression of the public will."

Another position taken by him was that, though minor matters in the Constitution, such as the forms and modes of proceeding—the agencies by which certain great objects are to be affected—may be changed, the essential principles of that instrument—the great compromises on which the whole rests—cannot, in good faith and honesty, be disturbed, without the consent of all the partners to the compact, a compact formed by each individual state separately, with each of the other states.

“Amendment means the improvement of what already exists, not a new creation; a change in form, not in substance; in modes of action only, and not in the principles of action. If a change is made in the essential principles of the compact,—if new principles are introduced, and a new order of things established,—it is a question whether the states dissenting from such changes are bound by them. The principles of the confederacy being changed, without the consent of the partners to that confederacy, is not this in fact a dissolution of the Union? Are gentlemen disposed to go thus far? The Constitution is a matter of compromise, as between the North and the South—the free and the slave states, and as between the large and the small states. These compromises are fundamental, and cannot in good faith be altered but by unanimous consent. Would the Southern States submit to an alteration depriving them of their slave representation? This partial, unjust, and unequal representation already gives the slave states eighteen votes in the House, and as many in the



electoral colleges, which is equal to the united votes in the House of *six whole states*, thus rendered powerless by this slave representation. And why should property, (for such you consider your slaves,) give an increase of representation in one portion of the Union, and property in other portions be not at all represented? With the exception of Massachusetts, which must soon be divided, the Northern States are all small states; and they are supposed to have received some compensatory advantage in this choice of a President and Vice President. But you take this away by the proposed amendment; which secures to the large states both these important offices. When, under the present provision, the choice devolves upon the House, the small states stand some chance to elect a President, the choice being made out of the five highest candidates. By the present amendment this choice is reduced to the three highest; and their choice is still further diminished by the designating principle. Will gentlemen who, by their negro votes alone, outnumber the votes of six entire states of this Union, seek to render the unjust advantage which they already possess still greater by this amendment? And have they considered what the effect of this new injustice may be on the minds of our people? There is a degree of sufferance to which men will submit; but beyond that, even cowards become desperate. The people of the Eastern States are not insensible to the indignity thus offered them. They are a brave and hardy race, who know their rights, and will not tamely submit to be reduced to a state of insignificance. They will see that no equivalent is given them for the injury this amendment inflicts on them, in the increased weight which it gives to the Southern and Western States, at their

expense. What effect this change may produce in New England, time alone can show. One thing is certain, that it will not strengthen the Union."

He dwelt further on the danger to the Union of thus disturbing the compromises of the Constitution, already seriously affected by the purchase of Louisiana; which would bring several new states into the confederacy, and throw the balance of power, originally adjusted with so much care, wholly in favor of the South and Southwest. Other objections were urged; some of them not unimportant; all going to show that the proposed amendment would make the strong states still stronger, and the weak states, already too weak, yet weaker. The office of Vice President ought, in his opinion, to be abolished, and the Senate left, like the House, to choose its own presiding officer.

"If the present amendment is adopted, the Vice President will ordinarily be a man of moderate but popular talents; who will be supported because he can bring the votes of a large state to aid in the election of a President from another large state. He will seldom be a very able man; for the President, like the jealous Turk, will bear no brother near the throne. Having the casting vote, when the Senate is equally divided, the Vice President gives an undue influence to his own state; and this has happened oftener on important questions than those who have not examined the journals for that purpose would suspect."

For these reasons he was willing to abolish the office of Vice President, but opposed to any other change of the Constitution.

On closing his speech, he was congratulated by his friends on the ability he had shown in it. But he complained that he had not felt his usual animation in speaking, and he doubted whether he should again attempt a set speech in the Senate. The debate was continued till ten o'clock in the evening. Tracy closed it with great ability on the part of the opposition. The amendments passed; yeas 22, nays 10. It was objected that twenty-two Senators were not two-thirds of the Senate; but the President *pro tem.* pronounced it a constitutional majority. A desultory conversation ensued, but no vote was taken. In the House a majority of two-thirds of those present and actually voting was obtained only by the casting vote of the Speaker. The amendments were approved by just the requisite number of states for their adoption, and are now a part of the Constitution. It did not, however, receive the vote of New Hampshire, so that, though my father voted against instructions in this case, his constituents came round and voted with him in the end against the amendment. No other amendment of the Constitution has since been adopted.

The House of Representatives had, at the previous session, voted to impeach John Pickering, District Judge of New Hampshire, and the case now came on

for trial before the Senate. The hypochondria, as it was called in 1794, of Judge Pickering, had in 1803 been developed into a condition, bodily and mental, which rendered him incompetent to the discharge of his official duties. How to get rid of him was now the question. The Constitution knows no mode of removing a judge except by "impeachment for high crimes and misdemeanors." That his mental powers were impaired or deranged, no one doubted. The New Hampshire Senators were both examined as witnesses as to his character, and testified to the high moral worth of the Judge, so long as he retained the use of his reason. Under these circumstances it was with difficulty that a sufficient number of votes could be obtained to convict him. The Federal members were all opposed to the impeachment, and three of the Republicans absented themselves. The final vote was, yeas 19, nays 7, and he was accordingly removed. The case was a difficult one, in every aspect. Pickering's removal was desirable; but to make insanity a misdemeanor was to confound all distinctions of law and justice, and to pervert the constitutional provision of impeachment for crime into an unconstitutional mode of removal from office without crime, thus changing the tenor of judicial office from "good behavior" to that of the good pleasure of Congress. The success of this impeachment furnished a new proof of the ease with which constitutional provisions

are made to yield to the supposed necessities of the public service, and to the interests, often urgent, of party leaders. In this case, it gave the administration an opportunity of rewarding partizan services with the spoils of office. John S. Sherburne, Jonathan Steele, Michael McCleary, and Richard Cutts Shannon were the principal witnesses against Pickering. Sherburne was appointed Judge; Steele, District Attorney; McCleary, Marshal; and Shannon, Clerk of the Court. Steele, expecting to have been Judge, refused to accept his appointment, assigning as the reason his agency in the removal of Pickering.

During the discussions which grew out of this impeachment, and those which soon after followed respecting Judge Chase, many of the leading Republicans evinced a determination to render the judges dependent, for the tenure of their offices, on the will of Congress. William B. Giles contended that a judge might be removed, though guilty of no crime, for mere error in judgment, or because he differed in political opinion from the President, or from Congress; and that either of these was a sufficient ground of removal, on impeachment. Randolph said, that the provision that the judges should hold their offices during good behavior was a provision against removal by the President only; but that whenever the people, by their representatives, request him to remove a judge, he is bound to do it,

and that the House may impeach, and the Senate convict and remove, for any cause which they may deem sufficient. The dominant party was already in possession of every department of the government, except the judiciary. They had abolished the Circuit Courts at the last session, and seemed now determined, by their movements against Chase, and their threats against some of the other judges, to drive their opponents from their only remaining stronghold, the Supreme Court—"a battery," said Jefferson, "by which all the works of Republicanism are to be beaten down and erased." My father had high notions of the importance of an independent judiciary; and this apparent determination to displace the judges, or, by the threat to do so, to bend them to the will of the party in power, filled him with gloomy apprehensions for the safety of our free institutions. These he regarded as depending for their permanence, more on constitutional restraints and the stability of established law, than on any vague notions of democratic virtue and popular infallibility. "I once thought," he says, February 10th, 1803, "our judiciary would be a permanent defence against the encroachments of power; but I presumed too much in favor of Republicanism. There are no bounds that can be set to the popular will." The people would, he thought, be right in the long run, and they must, at any rate, have their way in the

end ; but they often go wrong under the excitement of passion, and there should be somewhere placed a stiff curb on the first impulsive movement. This is the true use and design of checks and balances, and constitutional restrictions,—a veto power, in some department of the government, to give time for the better sense and sound judgment of the people to correct their first hasty and erroneous impressions. The judiciary and the Senate are the only conservative powers in our system, and if these are broken down, or betray their trust, there is no longer any barrier remaining against the despotism of party, or the sudden madness of popular delusion.

It was with these apprehensions, and at this period, that Mr. Plumer began first to entertain doubts as to the permanence of the Union, and to regard its dissolution as not improbable, and under certain circumstances, not undesirable. His opinions on this subject had much influence on his subsequent career, and shaped, to a great extent, his course of action, in some of the most interesting periods of his public life. It may be proper, therefore, to examine the state of public feeling on this question of a dissolution of the Union, and the establishment of separate confederacies, as manifested, more or less strongly, at different periods, in all parts of the country.

The union of thirteen independent states under one general government was an experiment of which

many, from the first, doubted the expediency, and more the success. Diversities of interest and feeling had shown themselves strongly, even under the pressure of force from without; still more strongly, after the peace with England; and with even greater prominence in the convention by which the Constitution was formed. Attachment to the Union was by no means universal or general. Writing to Washington, David Stewart said, "A spirit of jealousy, which may become dangerous to the Union, towards the Eastern States, seems to be growing fast among us. Colonel Lee tells me, that many who were warm supporters of the government, are changing their sentiments, from a conviction of the impracticability of union with states whose interests are so dissimilar to those of Virginia." "That there is a diversity of interests in the Union," says Washington, in reply, (March 28, 1790,) "none has denied; yet it does not follow that separation is to result from the disagreement. If the Eastern and Northern States are dangerous, in union, will they be less so, in separation? What would Virginia and such other states as might be inclined to join her, gain by separation?" Writing to Washington, three years later, (May 23, 1793,) Jefferson said, that opposition to the Union was originally so extensive at the South, and had been recently so much increased, that "a small number only was wanting to place the majority on the other side;" to



prevent which his continuance at the head of affairs was of the utmost importance. "North and South will hang together, if they have you to hang on. Otherwise, there is reason to fear the breaking of the Union into two or more parts." Edmund Randolph took the same ground. "The Union seems to me to be now on the eve of a crisis. The man alone, whose patronage secured the adoption of the Constitution, can check the assaults which it will sustain." Hamilton urged Washington's continuance in office, (July, 1792,) from the same apprehension of danger to the Union from his retirement at that time.

From that period to the present time, whenever any part of the country has felt dissatisfied with the measures of the government, this idea of a separation of the states has presented itself to the disaffected as a remedy for the oppressions under which they have thought themselves to labor. Even before the adoption of the Constitution, while Louisiana belonged to Spain, intrigues were carried on, with the authorities of New Orleans, for the separation of the Western country from the Union, and the establishment of more intimate relations with Spain. The latter country had its agents in the West, and, for a long time, paid pensions to certain prominent men there. "From the period of our independence," said Mr. Pope, of Kentucky, in the Senate of the United States, (Dec. 27, 1810,) "Spain has been intriguing to

separate the Western from the Atlantic States." In 1794, the Legislature of Kentucky, in a remonstrance to the President and to Congress, threatened a dismemberment of the Union, if the navigation of the Mississippi was not secured to them. During the Whiskey Insurrection in Western Pennsylvania, Hamilton writes to Washington, (August 5th, 1794,) that the opposition "has matured to a point that threatens the foundations of the Union." "If," said Fisher Ames, (December 12, 1794,) "fortune had turned her back upon us in August last, this Union would have been rent. The spirit of insurrection had tainted a vast extent of country besides Pennsylvania." "Separation," said Jefferson, (December 28, 1794,) "is now near and certain, and determined in the mind of every man." This expression is doubtless exaggerated, growing out of his own heated opposition to what he calls "the infernal excise law;" which would, he said, be made the instrument of dissolving the Union, and "set us all afloat to choose what part of it we would adhere to." Among the means used to prevent the ratification of Jay's Treaty, in 1795, was a threat from Virginia, "to recede from the Union, in case the treaty should be ratified." These threats were not lost on the mind of Washington. The dangers of disunion form one of the most prominent topics of his Farewell Address (September 17, 1796), to the people of the United States. In it, he states,

at great length, the advantages of the Union to the North and the South, the East and the West; and calls earnestly on the people "to frown indignantly upon the first dawning of every attempt to alienate any portion of our country from the rest."

These warnings, often quoted with salutary effect, have not, however, prevented the formation of plans of disunion, even in the native state of their author. The opposition to Adams's administration was so strong in the South and West, that threats of disunion were loudly uttered, and measures adopted, particularly in Virginia, having evidently that result in view, in the event of his re-election. Writing to Patrick Henry, (January 15, 1799,) Washington says that, though he believes the mass of the people are well affected to the general government, yet "measures are systematically and pertinaciously pursued" by the state authorities, "which must eventually dissolve the Union," if not put down by force. "The views of men can only be known, or guessed at, by their words or actions. Can those of the leaders of opposition be mistaken, if judged by this rule? The tranquillity of the Union, and of this state, in particular, is hastening to an awful crisis." "The late attempt of Virginia and Kentucky," says Hamilton to Dayton, (1799,) "to unite the state legislatures in a direct resistance to certain laws of the Union, can be considered in no other light than an attempt to

change the government. It will be wise, then, to act on the hypothesis that the opposers of the government are resolved, if it shall be practicable, to make its existence a question of force."

When Spain denied the right of deposit at New Orleans, threats were again uttered, that the western people would join the Spaniards, and "make the Alleghany Mountains the western boundary of the United States." "Would it be indecorous," said Wilkinson to Hamilton, "that I should express my apprehensions that we repose in false security; and that if we are not seasonably aroused, the dismemberment of the Union must be put to hazard?" Mr. Ross said in the Senate, (February 14, 1803,) that if the western people had not justice done them, in the business of the Mississippi, they would separate from the Union, and make the best terms they could with the power, whoever that might be, which commanded the mouth of the river. "Put France," said Gouverneur Morris, on the same occasion, "in possession of New Orleans, and the time will soon come, when those who cross the mountains, will cross the line of your jurisdiction." White of Delaware predicted, from the same event, "one of the greatest evils that can befall us, the dismemberment of the Union." Three years later, a series of articles was published in Ohio, in favor of a separation of the Western States from those on the Atlantic; and the same measure

was proposed in western Pennsylvania. This was at the time of Burr's conspiracy, and there is little doubt that the project of a western confederacy was then extensively entertained by many able, active, and disaffected men, who, "tired of the dull pursuits of civil life," looked to Burr to lead them out of the old confederacy into a "new empire of wealth and glory." The pretence was a war with Spain, and an attack on Mexico. Andrew Jackson favored Burr, while he believed this to be his object; but, when he discovered the true design, he wrote to Claiborne: "I hate the Dons, and would delight to see Mexico reduced; but I would die in the last ditch, before I would see the Union disunited."

Other and not a few more recent instances of anti-union feeling and action, at the South and in the West, might be given; but these are sufficient for our purpose. They show that such designs were of almost perpetual occurrence in our early history. It will excite little surprise, therefore, if we find, in the progress of this narrative, that similar movements, having the same object in view, have occurred also at the North. With some of these Mr. Plumer was connected; and it is on this account that the subject is here introduced.

In 1793, Timothy Dwight, President of Yale College, and like most of the eminent New England divines of the day, a leading politician, wrote thus to

a friend:—"A war with Great Britain we, at least, in New England, will not enter into. Sooner would ninety-nine out of a hundred separate from the Union, than plunge ourselves into such an abyss of misery." In the letters of Oliver Wolcott, Lieutenant Governor of Connecticut, to his son, then Secretary of the Treasury, this idea is repeatedly advanced. "If," says he, (November 21, 1796,) "the French arms continue to preponderate, and a governing influence of this nation shall continue in the Southern and Western countries, I am confident, and indeed hope, that a separation will soon take place." "Such an event," he says, (November 28, 1796,) "will be unhappy for us; but much less so, than to be under the government of a French agent." "Though I am sensible," he says, (December 12, 1796,) "by our late revolution, of the evils of one, I sincerely declare that I wish the Northern States would separate from the Southern, the moment that event [the election of Jefferson] shall take effect." This plan of disunion, thus rife in Connecticut in 1796, may not improbably be regarded as the germ of that which appeared at Washington, in 1803-4, at Boston in 1808-9, and which showed itself, for the last time, where it was first disclosed, in the Hartford Convention of 1814.

That the acquisition of Louisiana would lead to the dismemberment of the Union, seems to have been, at the time of its purchase, a not uncommon opinion. "Our

country," said Fisher Ames, (October 6, 1803,) "is too big for Union." In the House of Representatives, Roger Griswold, of Connecticut, said, (October 25, 1803,) "The vast and unmanageable extent, which the acquisition of Louisiana will give to the United States, the consequent dispersion of our population, and the destruction of that balance, which it is so important to maintain, between the Eastern and the Western States, threatens, at no very distant day, the subversion of our Union." In the Senate, James Hillhouse, of Connecticut, spoke, (January 26, 1804,) of the country as being divided by geographical lines. "I am," he said, "an eastern man; but while I am the representative of a state which is yet a member of the Union, I hope I shall have as much influence, as if I were a southern man." Jackson, of Georgia, said, (February 1, 1804,) "The settlement of Louisiana will effect, what I much deprecate, a separation of this Union." Drayton, of New Jersey, said, (February 2, 1804,) "If Upper Louisiana is settled, the people there will separate from us; they will form a new empire, and become our enemies." Stone, of North Carolina, said, (February 16, 1804,) "The acquisition of Louisiana will produce one of two things, either a division of the Union, or a very different government from what we now have."

Mr. Plumer had, even earlier, expressed himself to the same effect.

"The ratification," he says, (October 20, 1803,) "of this treaty and the possession of that immense territory will hasten the dissolution of our present government. The Constitution never contemplated the accession of a foreign people, or the extension of our territory. Our government may be compared to a company in trade. With as much propriety might a new partner be admitted, and the firm changed, without the consent of the old partners, as a new state, formed from without the limits of the original territory, be admitted into the Union, without the preconsent of each of the present states. Adopt this western world into the Union, and you destroy at once the weight and importance of the Eastern States, and compel them to establish a separate and independent empire."

On this subject he wrote, during the session, many letters to his friends in New Hampshire. To Bradbury Cilley, he wrote, January 5, 1804:

"I fear we are rapidly approaching a great crisis in our affairs. My hopes rest on the union of New England. That portion of our country will, and must unite, and become firm and determined in their measures. I am willing to own to you that I have spent many gloomy hours in contemplating this subject. The subject, at first, filled me with horror and disgust."

To Oliver Peabody, (January 19, 1804,) he gives a glowing picture of the evils suffered by New England, and then asks:



“What do you wish your Senators and Representatives to do here? We have no part in Jefferson, and no inheritance in Virginia. Shall we return to our homes, sit under our own vines and fig trees, and be *separate from slaveholders*? These are serious questions. What is your opinion, and that of the few in whom you can confide?”

To Thomas W. Thompson, he writes, in February, 1804:

“Our affairs rapidly approach an important crisis. The government is Virginian. New England must soon feel its degraded condition, and I hope will have energy to assert and maintain its rights; and it will be of infinite importance that the necessary changes should be effected under the forms, and by the authority of the existing state governments. What think you of this? Must the inheritance be secured? I hope the necessity of preserving our state governments, as a security against the approaching storm which may rend the Union, will induce men of sound minds, who have property, as well as reputation and life at hazard, to exert themselves in the March elections.”

To this Thompson replied, (February 27th,) “I have no idea that the season for action is near. The mass of our people do not reflect. They must be made to feel. In the meantime, we are all covetous of time and money, and nearly all too poor to contribute much of either for public purposes.” To this his disheartened correspondent rejoins, (March 10,) “In

New England I see but too little of national character or public spirit. The love of money will be our ruin. Oh! that the Eastern States knew, in this their day, the things that belong to their peace; but they are hidden from their eyes. If New England will not come out, and separate from this mass of Southern corruption, she must partake of their plagues." At an earlier date, (February 22d,) he had written to his predecessor in the Senate, James Sheafe, making the inquiry, "Will the Eastern States think of a separation? What is your opinion on the subject?" To this Sheafe replied, (March 7th,) "On the subject you hint at of separation, as a commercial man, I should dread such an event. Our consequence abroad would be lowered to nothing. I do not believe that a separation can be made, before half a century is past, without consequences ruinous to all the states."

To Jeremiah Smith, Mr. Plumer wrote, in March:

"If we wish for security to persons, property, or reputation, we must introduce a new order of things. How mutable is the state of things! A few years since, our fairest hopes rested on the wisdom and integrity of the General Government, to protect us against the ignorance and frauds of state legislatures. I fondly hope I shall live to see the righteous separated from the wicked by a geographical line. True policy demands it."

Smith had written to him, (March 9th, 1796,) "I

wish with all my heart that Virginia was out of the Union. These overgrown states are always troublesome." And later, (Dec. 22, 1803,) "I feel, I freely confess, no affection for the general government. It is Virginian all over; and you may depend upon it, this sentiment daily gains ground in New Hampshire. We feel that we are Virginia slaves now, and that we are to be delivered over to Kentucky and the other Western States, when our Virginia masters are tired of us. Is it possible that we can long stick together, as a nation, when there is so little cement, and so much repelling force in this heterogeneous mass? Man is a gregarious animal, it is true; but nature leads to small herds; and herds are not gregarious."

Other passages, of the same import with the preceding, might be quoted from Mr. Plumer's letters of this session; but these are sufficient to show that he was not mistaken, when, at a later period, he said that he was himself, at this time, a disunionist. The answers which he received, in reply to his letters on this subject, expressed universally a concurrence of opinion as to the evils of the times; but did not generally respond favorably to the hints of disunion thus thrown out. Some of them, however, did thus respond. One, from a distinguished divine and politician of Massachusetts, Jedediah Morse, expressed, very distinctly, a feeling then beginning to show itself among certain ardent politicians of that state.

"I cannot but hope," he says, (February 3d, 1804,) "that New Hampshire, Massachusetts, and Connecticut will outride the storm that threatens the ruin of our country. If we were peaceably severed from the rest of the United States, with perhaps some other states joined with us, and left to manage our own affairs in our own way, I think we should do much better than we now do. Our empire is growing unwieldy; and must, I think, ere long break in pieces. Some think the sooner the better."

To this Mr. Plumer replied, (March 10th:)

"I hope the time is not far distant, when the people east of the North River will manage their own affairs in their own way, without being embarrassed by regulations from Virginia; and that the sound part will separate from the corrupt."

The preceding extracts are from speeches and letters written at, or near the time of the events to which they refer. But the subject came unexpectedly before the public in 1828, in consequence of certain statements of John Quincy Adams, then President of the United States, in relation to this project of 1803-4. In explanation of a statement made by Mr. Jefferson, Mr. Adams alleged, (October 21st, 1828,) that the object of "certain leaders" of the Federal party in Massachusetts, in 1808, "was, and had been for several years, a dissolution of the Union, and the establishment of a separate confederacy." This "he knew from unequivocal evidence,

though not provable in a court of law." This design, he said, (December 30th, 1828,) "had been formed in the winter of 1803-4, immediately after, and as a consequence of, the acquisition of Louisiana. It had gone to the length of fixing upon a military leader for its execution. The author of the written plan was named to me,—a distinguished citizen of Connecticut. I was told it had originated there, and had been communicated to individuals at Boston, at New York, and at Washington." These statements of Mr. Adams were assailed from various quarters with great vehemence, and their truth denied, with many injurious imputations on their author. Under these circumstances, Mr. Plumer wrote to Mr. Adams the following letter:

"EPPING, N. H., December 20, 1828.

"During the long and eventful session of Congress of 1803 and 1804, I was a member of the Senate, and was at the city of Washington every day of that session. In the course of the session, at different times and places, several of the Federalists, Senators and Representatives, from the New England States, informed me that they thought it necessary to establish a separate government in New England, and if it should be found practicable, to extend it so far south as to include Pennsylvania; but in all events to establish one in New England. They complained, that the slave-holding states had acquired, by means of their slaves, a greater increase of Representatives in the House than was just and equal; that too

great a portion of the public revenue was raised in the Northern States, and too much of it expended in the Southern and Western States; and that the acquisition of Louisiana, and the new states that were formed, and those to be formed in the West and in the ceded territory, would soon annihilate the weight and influence of the Northern States in the government.

“Their intention, they said, was to establish their new government under the authority and protection of state governments; that having secured the election of a governor and a majority of a legislature in a state in favor of a separation, the legislature should repeal the law authorizing the people to elect Representatives to Congress, and the legislature decline electing Senators to Congress, and gradually withdraw the state from the Union, establish custom-house officers to grant registers and clearances to vessels, and eventually establish a Federal government in the Northern and Eastern States; and that if New England united in the measure, it would in due time be effected without resorting to arms.

“Just before that session of Congress closed, one of the gentlemen to whom I have alluded, informed me that arrangements had been made to have, the next autumn, in Boston, a select meeting of the leading Federalists in New England, to consider and recommend the measures necessary to form a system of government for the Northern States, and that Alexander Hamilton, of New York, had consented to attend that meeting.

“Soon after my return from Washington, I adopted the most effectual means in my power to collect the opinions of well-informed leading Federalists in New Hampshire, upon the subject. I found some in favor of the measure, but a

great majority of them decidedly opposed to the project ; and from the partial and limited inquiries I made in Massachusetts, the result appeared to me nearly similar to that in New Hampshire.

“The gentleman who, in the winter of 1803 and 1804, informed me there was to be a meeting of Federalists in the autumn of 1804, at Boston, at the session of Congress in the winter of 1804 and 1805, observed to me that the death of General Hamilton had prevented that meeting ; but that the project was not and would not be abandoned.

“I owe it to you as well as myself, to state explicitly, that in the session of Congress, in the winter of 1803 and 1804, I was, myself, in favor of forming a separate government in New England, and wrote several confidential letters to a few of my friends recommending the measure. But afterwards, upon thoroughly investigating and maturely considering the subject, I was fully convinced that my opinion in favor of separation was the most erroneous that I ever formed upon political subjects. The only consolation I had was that my error in opinion had not produced any acts injurious to the integrity of the Union. When the same project was revived in 1808 or 1809, during the embargo and non-intercourse, and afterwards, during the war of 1812, I used every effort in my power, both privately and publicly, to defeat the attempt then made to establish a separate independent government in the Northern States.

“You are at liberty to make such use of this communication as you shall consider proper.

“Accept the assurance of my high respect and esteem.

WILLIAM PLUMER.”

The publication of this letter led to some abusive attacks on its author, and to denials, more or less explicit, on the part of several persons who were members of Congress from Connecticut in 1803-4, as to their knowledge of any such design. One of these, Calvin Goddard, says, "I never did, during that or any other period, know, hear of, or suspect the existence of any such project." Another, Simeon Baldwin, says, that he "never heard from any Federalist, then or at any other time, the suggestion of a plan to dissolve the Union, or an intimation of a wish that such an event might take place." A third, John Davenport, says, that he does not "believe in the existence of any such plan, excepting only in the brains of Mr. Adams and Mr. Plumer." A fourth, John Cotton Smith, says, that he does "not believe that any plan of a division of the Union was ever contemplated, even for a moment, by any Federalist, in or out of Congress, distinguished for either talents or influence." James Hillhouse's statement runs thus: "I can with confidence say that during the session of Congress (of 1803-4,) or at any other time, either before or since, I never heard or knew of any combination or plot, among Federal members of Congress, to dissolve the Union, or to form a northern or eastern confederacy." Harrison Gray Otis and his eleven associates, in their controversy with Mr. Adams, say, (January 28, 1829,) "we solemnly disavow all knowl-



edge of such a project, and all remembrance of the mention of it, or of any plan analogous to it, at that or any subsequent period."

To those familiar with the history of the country from 1803 to 1805, these statements, high as is the character of their authors, will be received with many grains of allowance. To some it will seem that they must have been framed in accordance with the maxim, held good among lawyers, "to deny everything and call for the proofs." The denials were such as we have seen; the proofs were loudly called for. These, so far as the subject of this memoir is concerned, it is my business to present. It is, however, with no wish to revive controversy on this subject, and, least of all, to cast censure on any one, but in justice to the memory of a man who could not be mistaken in the facts which he related, and whose veracity those who knew him best would be the last to question, that the subject has been here introduced, and will be further considered in other parts of this work. The extracts already given from Mr. Plumer's letters, show that he was at this time himself in favor of disunion. Those which follow will show that he was not the only disunionist of that day. I begin with his own statements, arranged in chronological order, some of them made before, others at the time of the controversy of 1828-9.

Under date of November 23, 1806, in his journal,

the following statement occurs, in a notice of Aaron Burr. It is given as an instance of Burr's art in producing an impression on others, without committing himself by an express statement of his own opinions.

"In the winter of 1804, Timothy Pickering, James Hillhouse, myself and others dined with him (Burr) one day. Mr. Hillhouse unequivocally declared that it was his opinion that the United States would soon form two distinct and separate governments. On this subject, Mr. Burr conversed very freely ; and the impression made on my mind was, that he not only thought such an event would take place, but that it was necessary that it should. To that opinion I was myself then a convert. Yet, on returning to my lodgings, after critically analysing his words, there was nothing in them that necessarily implied his approbation of Mr. Hillhouse's observations. Perhaps no man's language was ever so apparently explicit, and, at the same time, so covert and indefinite."

This extract relates principally to Burr, whose character was the subject of remark, and yet indirectly to Mr. Hillhouse, yet it shows what was his opinion on the subject, at that time. Another conversation with the latter, on the same day, will be noticed in a subsequent extract. Under date of February 6th, 1809, he says: "When the late Samuel Hunt intimated to me the necessity of receding from the Union, he observed that the work must commence in the state legislatures; so that those who

acted should be supported by state laws. This he said was the opinion of ———, of Uriah Tracy and of many others." I omit the name of one person here introduced, as Mr. Plumer had no personal intercourse with him, and knew his opinions only as reported by others. It is the name, however, of an individual, for many years prominent in the politics of Massachusetts, and whose known opinions and conduct render his views on this question very little doubtful. Speaking of the Essex Junto, under date of March 10th, 1810, he says, "Their prime object is the dissolution of the general government, and a separation of the states." (October 20th, 1812,) "They are anxious to prevent Mr. Madison's having a single electoral vote in New England, that they may promote their favorite object,—a dismemberment of the Union." Under date of August 6th, 1812, he says, "The last time I saw Mr. Griswold, which was while I was in Congress, he was a zealous advocate—privately, but not publicly—for the dismemberment of the Union." Under date of July 21st, 1827, he says that "long and frequent conversations with Roger Griswold, Uriah Tracy, Samuel Hunt, Calvin Goddard, and others induced me, at length, to believe that separation was necessary for the security and prosperity of the Eastern States." He mentioned to Mr. Griswold, as an objection to the project, the danger to which its advocates might be exposed.

Griswold said that this difficulty might be obviated. His plan was "to do every thing under authority of the legislatures of the states." We see here the origin of Mr. Plumer's idea, in the letter to Smith, of "the infinite importance of preserving the state governments, as a security against the approaching storm." This mode of withdrawing from the Union, under authority of the state legislatures, was, indeed, too obvious to escape notice. "It is," said Randolph, (January 31st, 1824,) "in the power of the states to extinguish this government at a blow. They have only to refuse to send members to the other branch of the legislature, or to appoint electors of President and Vice President, and the thing is done." Under date of January 15th, 1828, Mr. Plumer says, "In 1804, he (Roger Griswold) was in favor of the New England States forming a Republic by themselves, and receding from the Union. This opinion he communicated to several of his friends, of whom I was one." These extracts are all of a date earlier than that of the Adams and Otis controversy, and could not, therefore, have been written in reference to it.

Commenting on that controversy, under date of March 9th, 1829, Mr. Plumer says: "I was satisfied, when I wrote my letter to Mr. Adams, and gave him liberty to publish it, that I should be vilified in the newspapers, and in conversation; but a sense of duty to my injured friend moved my pen, and I do not

repent my writing." This remark is in accordance with his usual disregard of consequences to himself, where he thought it his duty to act. It could not have been pleasant to him to make this avowal of what he regarded as the greatest error of his public life,—an error known to so few that, if not thus avowed, it might have passed unnoticed by the public. But he saw his friend unjustly assailed; and it was not in his nature to withhold the testimony which it was in his power to give. A timid man might have stood by, in silence; a selfish one, with secret satisfaction that he was not himself so assailed. But neither timid, nor selfish, he had no hesitation in speaking out, when his doing so seemed to him a duty. Under date of May 11th, 1829, he says:

"There is no circumstance in these publications that surprises me so much as the letter of James Hillhouse. I recollect, and am certain that, on returning early one evening from dining with Aaron Burr, this same Mr. Hillhouse, after saying to me that New England had no influence in the government, added, in an animated tone, 'The Eastern States must, and will dissolve the Union, and form a separate government of their own; and the sooner they do this the better.' I think the first man who mentioned the subject of dismemberment to me was Samuel Hunt, a Representative from New Hampshire. He conversed with me, often and long, upon the subject. But there was no man with whom I conversed

so often, so fully and freely, as with Roger Griswold. He was, without doubt or hesitation, decidedly in favor of dissolving the Union, and establishing a northern confederacy. He thought it might be effected peaceably, without a resort to arms ; and entered into a particular detail of the mode of effecting it. Next to Griswold, Uriah Tracy conversed most freely and fully upon this subject. It was he who informed me that General Hamilton had consented to attend a meeting of select Federalists at Boston, in the autumn of 1804. I do not recollect that he said Hamilton was in favor of the measure ; but I know he said Hamilton had consented to attend. Tracy said the day for meeting was not appointed ; nor were the persons who were to attend, selected ; but that I should be notified of the time, and invited to attend. It was Tracy, who, in the session of 1804-5, informed me that the death of Hamilton had prevented the meeting in Boston ; but, he added, the plan of separation is not abandoned. The three men last named, Tracy, Griswold, and Hunt, were the men with whom I principally conversed on that subject.

“One day, in the session of 1804-5, I distinctly recollect walking, about two hours, with Timothy Pickering, round the northerly and easterly lines of the city of Washington ; and on that walk no other person accompanied us. I perfectly recollect his conversing with me at that time, as if he were desirous of saying something to me, which he hesitated to communicate. His manner made such a strong and deep impression on my mind, that I shall never forget it. At length, he said, that he thought the United States were too large, and their interests too variant, for the Union to continue long ; and that New England, New York, and perhaps, Penn-

sylvania, might and ought to form a separate government. He then paused, and, looking me fully in the face, awaited my reply. I simply asked him, if the division of the states was not the object which General Washington most pathetically warned the people to oppose. He said, 'Yes, the fear of it was a ghost, that, for a long time, haunted the imagination of that old gentleman.' I do not recollect that he afterwards mentioned to me the subject of dismemberment."

It should be here observed, that before the date of this conversation, Mr. Plumer had himself ceased to be a disunionist. Of Hunt, Mr. Plumer, under date of July 31st, 1831, says: "His object was to divide the United States into two separate independent governments; the states easterly of Maryland to unite and form a government more energetic and more favorable to commerce, than the one which then existed. To effect this object, he corresponded with a considerable number of influential Federalists in various states." Under date of June 4, 1840, he says, that Tracy told him, in the winter of 1804, "that he was in favor of the Northern States withdrawing from the Union."

On reviewing this testimony, it may be remarked that there is no direct contradiction between the statements of Messrs. Hillhouse and Plumer. The former says, that he knew of no combination or plot to dissolve the Union. The latter, that Hillhouse told him the Eastern States must and would dissolve the Union,

and the sooner they did it the better. The one is the avowal of an opinion merely; the other, the denial of any plan formed to carry that opinion into effect. It is observable that Mr. Pickering, though alive at the Adams controversy, took no part in it. He was not the man to deny any well considered opinion which he might have entertained, because it would subject him to reproach. Mr. Plumer believed, on evidence which he deemed conclusive, that some other prominent men, several especially in Massachusetts, were concerned in this design, or approved of it; but they are not named here, as he had no direct personal communication with them on the subject. As to the proposed meeting for consultation, at Boston, in 1804, it should be remarked, that to consult on a project does not necessarily imply that the persons consulting have made up their minds in its favor; and still less, that they are prepared, if so decided, to follow up their opinions with correspondent action. It does, however, imply that the project was one deserving serious consideration, when such men as Hamilton, the acknowledged leader of the Federal party, Griswold, its leader in the House, and such Senators as Tracy, Pickering, Hillhouse and Plumer were to be members of a meeting of "select Federalists," by whom it was to be discussed, and, if found feasible, adopted.



With respect to Hamilton's views on the subject of disunion, Mr. Plumer affirmed nothing in his letter to Adams, as he knew nothing of them at that time. He was afterwards satisfied that, if Hamilton had attended the proposed meeting, it would have been to dissuade his friends from the project. On this subject, De Witt Clinton made the following statement, January 31, 1809, in the Senate of New York :

“ It is perhaps known to but few, that the project of a dismemberment of this country is not a novel plan, growing out of the recent measures of the government, as has been pretended. It has been cherished by a number of individuals for a series of years. A few months before the death of a distinguished citizen, whose decease so deeply excited the public sensibility, it was proposed to him to enlist his great talents in the promotion of this most nefarious scheme ; and to his honor be it spoken, it was rejected by him with abhorrence and disdain.”

This testimony of Clinton, to the existence of the project of 1803-4, and to Hamilton's disapprobation of it, is independent of that of Adams and Plumer, from neither of whom did he derive any information on this subject. It agrees perfectly with what Rufus King told Adams, at the time, thus adding a fourth witness to the fact, each independent of the others. On his way home from Washington, Adams called on King, (April 8th, 1804,) at New York.

"I found," he says, "there sitting, Mr. Timothy Pickering, who, shortly after I went in, took leave and withdrew. Mr. King said to me, 'Colonel Pickering has been talking to me about a project they have for a separation of the States, and a northern confederacy; and he has also been, this day, talking of it with General Hamilton. Have you heard anything of it at Washington?' I said I had—much—but not from Colonel Pickering. [Adams and Pickering, though colleagues, were not friends.] 'Well,' said Mr. King, 'I disapprove entirely of the project; and so I have told him; and so, I am happy to tell you, does General Hamilton.'"

The preceding extract is from a pamphlet, written by Mr. Adams, in 1829, but not yet published. The following extracts are from his letters to Mr. Plumer, the first dated December 31, 1828:

"Much of my information, at the time, was collected from Mr. Tracy, the Senator from Connecticut, who disapproved the project, but was, I believe, made acquainted with it in all its particulars. I think, though I am not sure, that it was he who named to me the writer of the plan by which the separation was to be effected, with three alternatives of boundary. 1. If possible, the Potomac. 2. The Susquehanna. 3. The Hudson. That is, the northern confederacy was to extend, if it should be found practicable, so as to include Maryland. This was the maximum. The Hudson, that is, New England and a part of New York, was the minimum. The Susquehanna, or Pennsylvania, was the middle term. There were moments of weariness and disgust in my own mind at the

errors and vices of Mr. Jefferson's administration, when I almost despaired of the Union myself. That it affected you to the extent at one time of contemplating with favor the substitution of another and more compassable system of confederation, can be no disparagement to your understanding or your heart."

It may be here remarked, that Adams says, that Tracy "disapproved the project," and Plumer, that he "was in favor of the Northern States withdrawing from the Union." Tracy, finding Adams averse to the project, may have conversed with him so cautiously, as to leave on his mind the impression that they did not differ materially in this respect; while to Plumer, who was in favor of it, he may have expressed directly his approbation of the plan. With the plan itself, they both agree that he was acquainted. Or, it may be, as is not unusual in such cases, the plan might have appeared to him, at times, feasible and even necessary, and under other aspects impracticable, and, therefore, to be disapproved. To determine whether it was so or not, would seem to have been, in his view, the object of the proposed meeting in Boston. In March, 1829, Mr. Adams writes :

"Mr. James A. Hamilton, a few days since, called upon me, by order of the President, upon certain matters of public concern. He said that, in confirmation of the view I had

taken of his father's opinions, at that time, upon the disunion project, there was a letter from him to Mr. Cabot, protesting, in the most urgent manner, against it.

“ He called upon me again upon certain business of the department. I asked Mr. Hamilton if he could give me the date of that letter, which he had mentioned to me, from his father to Mr. Cabot. He said he believed he had made a mistake about that letter. It was not from his father, but from Mr. Wolcott, giving his father's views upon the subject. He then took from his pocket a letter, which he said he had received that morning from his younger brother, (John,) and from which he read me three or four lines, to this effect,—that he had obtained from Mr. Wolcott a very full statement respecting Plumer's charge against their father, which it fully refuted. I said, I supposed by the term ‘charge,’ the letter meant your statement, that (as you had been informed) Alexander Hamilton had consented to attend the autumnal meeting at Boston, in 1804. He said it did. He also said there was a letter from his father, written not more than three days before his death, to Mr. Sedgwick, urging, with great earnestness, every consideration in favor of preserving the Union.”

It is worthy of remark, that if this statement of Wolcott refuted “Plumer's charge,” as it is here called, it could only be by showing that Hamilton had refused to attend the proposed meeting. This would prove that Tracy was misinformed as to Hamilton's answer; but it would also prove that an application had been made to him to attend; and, consequently, that such

a meeting was to be held—a conclusion pregnant of much which is pertinent to the present inquiry. On applying to John C. Hamilton, for a copy of Wolcott's statement, he informed me, (December 17th, 1853,) that "he neither has, nor knows of any communication, or memoir, from Mr. Wolcott, on the subject referred to." What has become of this statement does not appear. It is difficult to imagine that Mr. Adams, whose letter was written the day after his interview with James A. Hamilton, could have been mistaken in his account of what the latter read to him. In the seventh volume of General Hamilton's works, (published in 1851,) there is an article published by him, early in 1804, with a view to dissuade the Federalists from voting for Aaron Burr as Governor of New York, in which he says that, in New England, "causes are leading to an opinion that a dismemberment of the Union is expedient;" and he argues that Burr, if elected, might be disposed to put himself at the head of this movement, and thus become "the chief of the Northern portion." Whether this was written before or after Hamilton's interview with Pickering in April, does not appear. The reader may perhaps consider the conversation above noticed, of Burr with Pickering and Hillhouse, in the preceding winter, as some confirmation, however slight, of Hamilton's conjecture as to Burr's designs.

His own opinion of the project appears in a letter, dated July 10, 1804, to Theodore Sedgwick.

"I have had on hand," he says, "for some time, a long letter to you, explaining my views of the course and tendency of our politics, and my intentions as to my own future conduct. But my plan embraces so large a range that, owing to much occupation, some indifferent health, and a growing distaste to politics, the letter is still considerably short of being finished. I will here express but one sentiment, which is that dismemberment of our empire will be a clear sacrifice of great positive advantages, without any counterbalancing good; administering no relief to our real disease, which is Democracy, the poison of which, by a subdivision, will only be the more concentrated in each part, and consequently the more virulent. King is on his way to Boston, where you may chance to see him, and hear from himself his sentiments."

We here see Hamilton and King opposed to disunion, as Adams had found them to be in the preceding April. It also appears that what Hamilton deemed most important in the long letter to Sedgwick, to which his son James seems, in the conversation with Adams, to refer, was this very subject of "the dismemberment of our empire." Fearful that he should not live to complete that letter, he could not withhold from his friend his opinion on this most essential point. The disease, which they both lamented, was Democracy. This, not being confined to any part

of the country, could not be removed by excision. Fisher Ames said, a little later, (January, 1805,) "It is the opinion of a few, (but a very groundless opinion,) that the Union will be divided, and the Northern confederacy compelled to provide for its own liberty." In his opinion, the evil was incurable. "Our disease," he said, (March 10th, 1806,) "is Democracy. Our Republicanism must die; and I am sorry for it." The letter of Hamilton to Sedgwick is dated two days only before his death. That a knowledge of this design was among the causes which influenced him in accepting the challenge of Burr, is not improbable, from what he says of the necessity of preserving unsullied his reputation for courage, that he might be useful "in those crises of our public affairs, which seem likely to happen." With the pistol of Burr already at his breast, can we imagine that Hamilton invented this plot of "the dismemberment of our empire?" Or, rather, can we doubt that he believed in its reality and its imminence; and that he felt it to be his duty, before going forth to the field of blood, where one of his sons had perished before him, and where he was himself so soon to fall, to dissuade his friends from taking part in it? Other facts in relation to the project of 1803-4 might be here adduced; but my object is answered, if I have shown that it had an existence, real and palpable, other than "in the brains of Mr. Adams and Mr. Plumer;" and that the

latter, when he spoke of a design to dissolve the Union, as being entertained by certain leading men in New England, spoke not at random, or from conjecture, but from his personal knowledge of their designs. Honest in his own approbation of the plan, he never doubted that others were equally honest in its adoption, though, as he soon afterwards came to believe, mistaken in their policy.

The project of 1803-4 is an instructive incident in the history of the country,—a design, formed with deliberation, by able, virtuous and patriotic men, which, though never carried into effect, was not without its influence on the conduct of its projectors and the course of public measures. The acquisition of Louisiana was so decidedly popular, even at the North, that no effective opposition could be made to it. Pleased with the purchase, the people gave themselves no trouble to inquire whether it violated the Constitution, or might ultimately change the balance of power among the states. The advantages were present and undeniable; the evils remote, and, it might be, imaginary. This the authors of the disunion scheme would have seen, and have forborne, perhaps, even to plan and project, if they had not been smarting, at the time, under the sore mortification of that signal defeat, which had dashed to the earth all their most cherished hopes, and seemed, in “the full tide of successful experiment” which fol-



lowed Jefferson's advent to power, to be sweeping before it, not their hopes and fortunes only, but all which they esteemed as best in the government and most sacred in the institutions of the country. "Our wisdom," said Fisher Ames, "framed a government, and committed it to our virtue to keep; but our passions have engrossed it, and armed our vices to maintain the usurpation." "The election of Mr. Jefferson to the Presidency was," says John Q. Adams, "upon sectional feelings, the triumph of the South over the North; of the slave representation over the free. On party grounds, it was the victory of professed Democracy over Federalism, of French over British influence. The party overthrown was the whole Federal party. The whole Federal party was mortified and humiliated at the triumph of Jefferson." Hence the reason, at once, and the apology for the earnest opposition which they waged to the leading measures of his administration. Unsuccessful in this opposition, it is not strange that, in the shipwreck of their fortunes, some able men among them, profoundly impressed with the value of the great interests at stake, and seeing no hope of relief by a change of measures, while the South, with its slaveholding influence, continued to govern the country, should have regarded disunion as, in the last resort, the only sure deliverance from the evils which they already felt, and the yet greater which they feared.

That they mistook the remedy, we may well believe; but history, in recording their error, will do justice to their motives. History, indeed, is full of such mistaken remedies for real or imaginary evils,—the impracticable schemes of honest, but disappointed, and thence short-sighted politicians,—“fears of the brave and follies of the wise.” Though, now that the feelings and the apprehensions which gave rise to such designs have passed away, we may regard them with disapprobation, or with regret, we can neither doubt their existence, nor disbelieve the accounts of those who were acquainted with, or concerned in them.

The subject of these latter pages has been, in certain respects, an unpleasant one to me, as it may be to some of my readers. But it could not be avoided. The path of duty was plain before me. The character of Mr. Plumer had been most vehemently assailed in this matter, and the truth of his statements loudly denied; and that, too, with an imposing array of names, and a weight of character, which demanded and even challenged reply. It was not for his biographer, under such circumstances, to shrink from an exposition of the facts, which repel that assault, and place his veracity, in this case, as it justly is in all others, beyond question or reproach. This exposition has been made in no unfriendly spirit towards the

living or the dead, and with no imputation on any one of ungenerous or unmanly motives. The same spirit will be preserved in what follows, in subsequent chapters, on this subject of disunion. I have here, as in other cases, quoted, and shall continue to quote, though at the expense of some prolixity, the words of the persons whose opinions I would represent, rather than run the risk of mistaking their meaning, by attempting to express it in my own language. Nor have I, by detaching them from the context, knowingly given them a meaning, in any case, different from that which they were intended to express. I have here, as elsewhere, added the dates, both as furnishing references, and as connecting the words quoted with contemporaneous events, often necessary to their full understanding.

## CHAPTER VIII.

### THE SENATOR.—(CONTINUED.)

RETURNING from the heated atmosphere of Washington, in the spring of 1804, with the excited feelings of an eager politician, Mr. Plumer felt sensibly the indifference of many of his Federal friends to the course of public events. Governor Gilman had been re-elected in March; but a majority of both Houses was Republican, and that party looked with confidence to the next trial of strength to give them the entire control of the state. Under these circumstances, many Federalists were disposed to give up the contest in despair; but Mr. Plumer attached too much importance to the questions at issue, to allow any doubt of success to relax his efforts. Members of Congress were to be chosen in August, and Electors of President and Vice-President, in November. He thought it of great importance that New England should preserve its Federalist representation in Congress, and retain the party supreme in the state governments. He took the most active measures, therefore, to bring out the whole Federalist strength at the August elections. Associating with himself five other

persons, one from each county, he organized them into a self-constituted State Committee. Under this committee, of which he was chairman, county committees were formed, and under these, town and school district committees, whose duty it was to bring every Federal voter to the polls, and secure, as far as possible, the wavering and doubtful to their ranks. Similar political arrangements have since become not uncommon; but this is believed to have been the first instance, in this state, in which a systematic attempt was made to bring the whole force of a party, thoroughly organized, to bear with undivided weight on the result of an election. Newspapers were provided for gratuitous distribution; and post-riders employed to distribute them in every part of the state. Among other things, it was voted by the central committee, to have an address written and distributed, in a pamphlet form, among the people, and the chairman of the committee and Judge Smith were requested to prepare it. Smith, however, declined writing any part of the address, on the ground, that, it was necessary for him, as Chief Justice of the Superior Court, whatever might be his real feelings, to preserve an appearance, at least, of impartiality, which, he said, he could not do if known to have written an electioneering pamphlet. This threw the labor of the address on the chairman of the committee; who, though accustomed to public speaking,

had never written any thing for publication, beyond an occasional newspaper paragraph. He, however, set himself to the task with his accustomed zeal and activity; and six thousand copies were printed, and distributed in every town of the state, on the 18th of August, a few days only before the election. This address was republished in many Federal papers, both in and out of the state, and was undoubtedly among the chief agencies in deciding the election in favor of the Federalists, by an average majority of eight hundred votes.

It is easy, in looking at this document, to see that the subject uppermost in the mind of the author was the unequal, and, he thought, unjust operation of the measures of the general government, as then administered, on the rights and the interests of New England. After a brief, but able examination and defence of the Federalist administrations of Washington and Adams, and a comparison of them with the Republican one of Jefferson, not at all to the advantage of the latter, he proceeds to point out the unequal burdens imposed on the Northern States, by the measures of the party then in power; and traces all the evils suffered to the existence of slavery in the South, and its representation in Congress. This slave representation, equal to that of six whole states, had made Jefferson President; and had carried, by its vote in Congress, almost every measure of which the free

states could justly complain. Banish the slave representation from the government, and Federalists would still be in the majority. That this slave power favors the South, at the expense of the North, is shown by an examination of the leading measures of the administration, in respect to the army and navy, the duties on foreign goods, the navigation acts, the policy pursued towards the Indians, the purchase of Louisiana, the post office, the hospital money, and the appointments to office. "The voice of New England is not now heard in Congress," he says. "Virginia influence directs every measure of the government. It has broken down and destroyed every man who has been opposed to it, whatever his politics may have been." While the author disavows any design to dissolve the Union, the whole strain of his argument goes to show that such a measure would be for the advantage of the Northern States. This obvious tendency of the address, though disclaimed by the writer, was so strongly felt by others, that the answer which the ablest of his opponents made to it, was introduced by extracts from Washington's Farewell Address, on the value of the Union.

Encouraged by his unexpected success in the Congressional election, the author entered with equal zeal into the Presidential canvass. The same machinery was again put in operation, and he wrote and published in the newspapers six numbers, under the

signature of "Cato," on the character of Mr. Jefferson and his pretensions to the Presidency. They were made up largely of extracts from the writings of Jefferson; and their object was to show, that little reliance was to be placed on his judgment, or his sincerity, since he had, at different periods, advocated the most opposite and contradictory opinions. The subjects, respecting which his conduct and opinions were thus examined, were the naturalization of foreigners, the encouragement of domestic manufactures, commerce, the navy, the judiciary, religion, the Presidential election of 1801, and his appointments to office. In all of these, he found the usual, and, as he thought, much more than the usual inconsistencies of unscrupulous politicians, professing in theory, or while in opposition, opinions which, in practice, or while in office, they renounce or disregard. He thought ill of Jefferson's politics, and worse of his morals. His efforts were, however, of little avail with the public. The opposition was daily losing ground. New Hampshire voted, by a majority of five or six hundred, for Jefferson's re-election. Massachusetts did the same; and the Federal candidate, Charles Cotesworth Pinckney, received only fourteen electoral votes out of one hundred and seventy-six in the whole Union.

This triumphant re-election of Mr. Jefferson, produced a great change in my father's mind, not as to the measures of the President, but as to the policy of



further combined opposition to them. Connecticut alone, of the Northern States, had voted against Jefferson's re-election. Her nine votes, with the three of Delaware, and two from Maryland, constituted, on this occasion, the whole strength of the opposition. Was it good policy in the Federal party, any longer to keep up its feeble and unavailing opposition? As to dissolving the Union, with Democracy ascendant in every state but one at the North, there was of course nothing more, at this time and under these circumstances, to be said or done. He had, even before the result of this election was known, become convinced that, however desirable such a measure might be, it was, at this time, impracticable; and he was not long in reaching the yet more important conclusion, that the design itself was founded on a mistaken view of the true interest of even the Northern States, and, therefore, ought never to be entertained. From this time, without changing materially his general views of policy, as to the measures of the government, he felt no longer the strong directing motives, which had before governed his procedure, and came by degrees to look, first with indifference, and afterwards with aversion, on projects which had before seemed to him important, as means for the attainment of objects which he no longer regarded as desirable. The first effect of this dis-

appointment was to lead him to despair of the permanency of a free government.

“More than half my time,” he writes, “since the adjournment of Congress, has been devoted to the elections. Can a government which requires so much, and such unremitting attention to support it, long continue? I feel weary; but I consider it my duty to continue my efforts. I have ever considered the existence of freedom here, as depending on the prevalence of Federalism. Perhaps I may have been, in this respect, in an error. Must we travel, as other states have done before us, through Democracy to despotism? But I will not despair—too much wisdom is painful—it conjures up too many evils which, after all, may be but imaginary. I write this at the moment, (October 22, 1804,) of packing my clothes for Washington.”

It was with these views that he once more took his seat (November 5th, 1804,) in the Senate. The state of his feelings in this respect may be inferred from a letter (November 20th,) which he wrote to me:

“I feel less interest in politics than I did the last year. The decline of Federalism in the East convinces me that Democracy must overrun us. As I can do little good by being active, in the present state of parties, I think I ought to be more quiet; and that this will have a tendency to cool down the rage of party, and thereby bring our people to a

state of reflection and consideration. I do not mean that I have, in the least, changed my political creed. I am still a Federalist. I shall, on all occasions, when I am obliged to act, act openly, and according to my opinions. But I think, when I return home, if I find New Hampshire revolutionized, as I fear it will be in March, that I shall avoid the subject of politics, and not furnish, by my conversation, fuel for the fire of Democratic rage. Let them rule without opposition ; they will the sooner divide ; and the sooner be prepared for a better state of things, in which virtuous men will again be called to office."

Though the violence of his Federalism had passed its culminating point, and he saw both the folly of disunion, and the hopelessness of Federalist ascendancy, his opposition to the Jeffersonian policy was not at this time sensibly abated. The leading measure of the session, the impeachment of Samuel Chase, one of the judges of the Supreme Court of the United States, touched him at a tender point. He had always attached great importance to the independence of the judiciary ; and the avowed object of the administration, was to render the judges dependent on the popular will. Mr. Giles, the administration leader in the Senate, said to him, in conversation : " We are to sit in this case as a Senate, not as a court, and to use the same discretion in the trial, as we do in legislation. We have authority to remove a judge, if he is disagreeable in his office, or wrongheaded, and

opposed to the administration, though not corrupt in conduct. Judges ought not to be independent of the co-ordinate branches of the government ; but should be so far subservient, as to harmonize with them in all the great measures of the administration." He avowed substantially the same opinions in debate in the Senate. This was saying, in effect, that if a judge delivered an erroneous opinion—erroneous in the view of the Senate—he might be impeached and removed from office, as guilty of high crimes and misdemeanors. Samuel Chase was one of the signers of the Declaration of Independence, and is said to have been the man who first startled the ear of Congress, still fearful of extremes, with the daring declaration that he no longer owed allegiance to the British king. Bold, resolute and decisive, alike in conduct and in language, he knew no compromises of opinion ; and had little regard for the feelings or the wishes of his opponents. A sound lawyer and an able judge, he carried the prejudices of the party politician with him to the bench, and had thus made himself peculiarly obnoxious to the dominant party, by what they regarded as error of opinion, aggravated by insolence of demeanor. The impeachment now brought against him was founded on his conduct in the trial of Fries, for treason, and Callendar, for a libel, in 1800, and on one of his charges to a grand jury, in Maryland, in 1803.

In these cases the judge, who was a zealous Federalist, was accused of having allowed party feelings to pervert his judgment and govern his decisions, "to the subversion of justice, and the disgrace of the character of the American bench." The trial commenced on the 9th of February, and continued, with little intermission, till the 1st of March. It was remarkable, alike for the importance of the principles involved in the issue, the dignity of the court, the high standing of the accused, the power of his prosecutors, and the learning and ability of his counsel, not less than from the singularity of the fact, that the President of the Senate, who presided with such mingled ease, grace and authority at the trial, was himself then under indictment for murder, and was afterwards tried for his life on a charge of treason against the United States,—the very crime for which Chase had tried Fries, and in which trial he was accused of having committed some of the offences for which he was himself now arraigned. Mr. Plumer took great interest in the trial of this impeachment; and his letters, journals and memoranda contain a full account of the proceedings. A few extracts are all we have room for in this place.

"Though, during the trial, I did not visit Judge Chase, yet, on my accidentally falling in company with him, he said that, if this impeachment had been brought against him twenty

years ago, he should have considered it the most fortunate event of his life. It would have made him President of the United States. But he was now old, and grievously afflicted with the gout, and he feared the prosecution would break him down. Yet, conscious of his innocence, he defied the Senate to convict him on any of the charges brought against him by the House. The trial was about half through, when he was seized with a fit of the gout, and obtained liberty of the Senate to return home. His counsel were vastly superior, in talents and legal attainments, to the managers appointed by the House. I took full notes of the testimony, arguments and authorities on both sides. Though the trial was long and fatiguing, yet, from its novelty and importance, it was very interesting. It engrossed my unremitting attention for more than twenty days. The public felt a deep interest in the result. Our galleries were crowded with gentlemen and ladies of distinction, not only from the vicinity, but from distant parts of the country. The Senators, during the trial, did not converse much with each other respecting its merits ; but each appeared to form an opinion for himself, without attempting to influence others. There was a full Senate, when the final vote was taken ; and each Senator voted separately on each article. Uriah Tracy, of Connecticut, after hearing the testimony, was taken sick, and confined to his chamber. The mode of proceeding being settled, the Vice-President requested the Senate to wait a moment for one of its members. Mr. Tracy was brought in on a couch, and led to his seat, where he continued for two hours, till every question was decided. The appearance of a sick man, with a very pale countenance, added to the solemnity of the proceeding, and made a deep

impression on the Senate, the House and the crowded spectators of the scene. Though I considered Judge Chase as having, in some few instances, been guilty of intemperance of language, and imprudence of conduct, unbecoming the character of a Judge, his conduct, even in these cases, would not have prevented my voting for his appointment as a Judge, if that had been the question before us ; much less would it justify his conviction, as guilty of high crimes and misdemeanors. My vote, therefore, was, on each article, not guilty. On one of the articles, every Senator voted not guilty ; on four others, a majority acquitted him ; and on the other three, a majority found him guilty. But, as it required two-thirds to convict him, the President pronounced him acquitted on all the charges ; and the court adjourned without day. This acquittal of Judge Chase was a great point gained in support of the Constitution, and the independence of the Judges. A prosecution commenced in the rage of party, and impelled by the whole influence of the administration, was arrested ; and, to the honor of the accused, he owed his acquittal to the votes of his political enemies. Immediately after the Senate had pronounced judgment in the case, Randolph, in the House, made a violent harangue against both the Judge and the Senate, and moved to amend the Constitution, so as to make it the duty of the President, on the address of Congress, to remove the judges from office. Nicholson, another of the managers, proposed that the Legislature of each state should have authority, at any time, to recall its Senators. But the administration, and a majority of the House, disapproved of these violent measures, and they were rejected."

My father attached the more importance to the result of this trial from the belief, then general with the Federalists, that the attack on Chase, if successful, would have been followed by other impeachments, which would have ended, either in removing all the judges, or, if they remained on the bench, in rendering them subservient to the wishes of the administration. He considered the impeachments of Pickering and Chase as "parts of a vicious system, which extends to the removal of every Federal judge from both the Supreme and inferior Courts." But the acquittal of Chase, the most obnoxious and assailable of the judges, put an end to all such designs. "Impeachment," said Mr. Jefferson, "is a farce which will not be tried again." He had, while the trial was still pending, (January 5th, 1804,) told Mr. Plumer, "that he regarded impeachment as a bungling way of removing judges." With reference to this trial, my father wrote to me, (March 3d, 1805):

"You will hear before this reaches you, that the greatest and most important trial ever held in this nation has terminated justly; and that the venerable judge, whose head bears the frosts of seventy winters, is honorably acquitted. I never witnessed, in any place, such a display of learning and eloquence as the counsel for the accused exhibited. They conveyed correct sentiments, and pure principles, in so impressive a manner, to intelligent minds from all parts of the Union,



as must have a salutary effect on the public, in relation not only to the Judiciary, but to the Constitution generally."

(March 10th, 1805.) "At Baltimore, I spent an evening with Judge Chase and his family. Neither of his sons was present; but three of his daughters were there, the youngest perhaps eighteen. The strong, yet tender attachment they manifested for him, and the joy they exhibited at seeing me, who was at once the friend and the judge of their father, made a deep impression on my feelings. The righteous judgment of the Senate has made the judge and his family as happy as such an event can render those who prize reputation above life."

Though still a Federalist, my father was no longer anxious to keep up party distinctions. "I did," he says, "everything I could, during the session, to restrain and destroy the spirit of party. With this view I opposed, and by my opposition prevented, the celebration of Washington's birth-day by the Federalists, who had made it on former occasions a mere party festival. This I thought peculiarly imprudent at that time, from the unhappy influence it would have on the trial of Judge Chase, which was then depending."

To his wife he wrote, (December, 1804): "Yesterday, I dined with the President, and was seated by his side. He has improved much in the article of dress. He has laid aside the old slippers, red waistcoat and soiled corduroy small-clothes, and was dressed all in black, with clean linen and powdered

hair. He is very sociable and easy of access, and puts his company perfectly at their ease."

Massachusetts had, about this time, proposed an amendment of the Constitution, depriving the Slaveholding States of their slave representation. This amendment had been postponed by the Legislature of New Hampshire. In a letter to Wm. A. Kent, (December 31st, 1804,) he says, "I was in hopes the Court would have decided the amendment proposed by Massachusetts. Nothing but gross misrepresentation, and the force of party rage, can induce the Free States to acquiesce in this negro representation."

To me, speaking of some falsehood reported of him, he wrote, (January, 17, 1805 :)

"In times like these, and indeed at all times, and in all nations, those who have discharged their duty to their country and their God, have been calumniated. It is unreasonable to expect an exemption from the common lot of man. I seek the approbation of the well-informed and virtuous; and I know that so long as I act faithfully and prudently, I shall enjoy their confidence. But, beyond this, the honest man has a reward which the malice of demons cannot touch,—the consciousness of having done his duty. So live, and so conduct, my dear son, as to enjoy the approbation of your own mind, and that of high heaven."

To J. Smith, (February 7, 1805): "The Senate is less divided by the line of Federalists and Democrats than I ever knew it before to be. Our divisions now arise from other sources, from the merits of particular measures, and from local attachments,—from Free States and Slave States, commercial and anti-commercial." The Senate passed at this session a bill providing for the government of the Orleans territory. "I voted against it," he says, (February, 1805,) "because it provides that the territory, when it has sixty thousand free inhabitants, shall be admitted as a state into the Union, upon the footing of the original states. This provision appears to me unconstitutional. I think we cannot admit a new partner into the Union, from without the original limits of the United States, without the consent, first obtained, of each of the partners composing the firm." This opinion he had avowed on the first purchase of Louisiana, and he never afterwards saw reason to change it.

With this session expired the term of service of Aaron Burr, as Vice-President. I find among Mr. Plumer's papers, many notices of this extraordinary man. Burr lost, by his conduct in the presidential election of 1801, the confidence of the Republican party, without gaining the Federalists. In the New York election of 1804, he was a candidate for the office of Governor; and, by the aid of the Federalists,

most of whom voted for him, he came near being elected. Alexander Hamilton had used his influence against him, and Burr imputed his defeat to this opposition. This led to the fatal duel, and the death of Hamilton sealed the destiny of Burr. Desperate in his private fortunes, hated by the Federalists, and feared and distrusted by the Republicans, he had no longer a home in New York, nor a party in the Union. He took his seat, however, in the Senate, contrary to the usual practice, on the first day of the session. "This," said Mr. Plumer, (November 7, 1804,) in a letter to John Norris, of Salem, "is the first time, I believe, that ever a Vice-President appeared in the Senate the first day of a session; certainly, the first (God grant it may be the last) that ever a man indicted for murder presided in the American Senate. We are indeed fallen on evil times. To a religious mind, the aspect of public affairs is veiled in darkness. The high office of President is filled by an *infidel*; that of Vice-President by a *murderer*." To me, he wrote, November, 1804:

"Colonel Burr seems determined to browbeat and cajole public opinion. The Federalists treat him with very great coldness. Those from New England do not visit him. In the Senate chamber, I make a very formal bow as he passes me, but hold no conversation with him. His manners and address are very insinuating. Mr. Jefferson has shown him

more attention, and invited him oftener to his house, within the last three weeks, than he ever did for the same time before. Mr. Gallatin has waited upon him often at his lodgings, and one day was closeted with him more than two hours. Mr. Madison, formerly the intimate friend of Hamilton, has taken his murderer into his carriage, and accompanied him on a visit to the French minister. Mr. Giles, the present ministerial leader in the Senate, has drawn up a paper addressed to Governor Bloomfield, of New Jersey, stating that in killing his antagonist in a fair duel Burr was not guilty of murder, and requesting the governor to direct a *nolle prosequi* to be entered on the indictment now depending in that state. This address was not shown to New England Senators. Mr. White of Delaware, to whom it was presented, declined signing it. It was signed by many, if not all the Democratic Senators present. The Democrats of both Houses are remarkably attentive to Burr. What office they can or will give him is uncertain. Mr. Wright, of Maryland, said in debate: 'The first duel I ever read of was that of David killing Goliath. Our little David, of the Republicans, has killed the Goliath of Federalism, and for this I am willing to reward him.' They know their man, and will not choose to trust him unnecessarily."

To James Sheafe, he writes, (January, 1805):

14- a J. a "When Judge Chase appeared before the Senate, Burr would not suffer a chair, which had been provided for him, to remain, but ordered it away. The judge was obliged to solicit a seat, and was interrupted, and treated with a degree

of rudeness, not to have been expected from so courtly a man as the Vice-President. His anxiety to please the Democratic party certainly made him, on this occasion, overact his part ; not at all to the satisfaction of the more moderate among them."

To his wife, he writes, (March 2d, 1805) :

"Mr. Burr has taken his final farewell of the Senate. His address would have done honor to a better heart. It was delivered with great force and propriety, and, as he bowed and retired, we were all deeply affected, and many shed tears. The Senate passed unanimously a vote of thanks, approving of his official conduct as Vice-President. I condemn as cordially as any man living his fatal rencontre with Hamilton, on the Jersey shore, in July last ; but his official conduct in the Senate, for the last three years, has fully met my approbation. To acknowledge this, in my public capacity, was a debt justly due from me, and I have paid it cheerfully. To-morrow, at half-past ten in the evening, I shall take my departure from this place. Anxious, as I am, to embrace again my family and friends at home, I part with regret from dear friends here, many of whom I shall probably never behold again. May He whose tender mercies extend to the lily of the valley, and the feeble sparrow of the field, protect you and our dear offspring."

Mr. Plumer found, on his return, that the Republicans had carried the state, at the March elections,

as he had predicted they would. To Uriah Tracy, he writes, (May 2d, 1805):

“Democracy has obtained its long expected triumph in New Hampshire. John Langdon is Governor elect. His success is not owing to snow, rain, hail, or bad roads, (the usual excuses for Federal failures,) but to the incontrovertible fact, that the Federalists of this state do not compose the majority. Many good men have grown weary of constant exertions to support a system, whose labors bear a close affinity to those of Sisyphus. They feel disposed to attend to their own affairs, and leave those of the state to *philosophers*, who can dissect the wing of a butterfly or the proboscis of a mosquito, and are, therefore, well qualified to make and administer the laws. In Massachusetts, Strong will be re-elected; but Sullivan presses hard in his rear. That Commonwealth must soon follow New Hampshire. It will be reserved for Connecticut to preserve her *steady habits* yet a little longer. *Mutability* is one of the *permanent* laws of nature; or, as our learned friend from South Carolina says, ‘man is man.’ And now a word as to my dear self. I have discontinued most of my newspapers, and devote my time and money to more useful works, principally history. I labor with my hands on my farm as much as four hours a day, and spend the residue in reading, writing and conversation. This change of studies is productive of more substantial pleasure than a knowledge of the fleeting events of the day can afford. The exercise is necessary to my health, which, thank Heaven, continues good.”

The last of his children was born about this time. He thus states the fact in his Register: "On the *fifth* day of the *fifth* month, in the *fifth* year of the nineteenth century, I had a *fifth* son born. These circumstances induced me to call his name *Quintus*." The next entry on this subject, is, (May 29th, 1805,) This day my son Quintus died in my arms, having lived only *five* times *five* days." This remarkable concurrence of fives in the incidents of his birth and death, is commemorated on his gravestone, in an inscription which, from its singularity, has found its way into several collections of epitaphs.

Mr. Plumer passed the summer and autumn in the society of his friends, and in the labors of the farm, to which he was always attached. The approaching session of Congress called him again to Washington. Under date of November 17th, 1805, he says:

"Late in the afternoon I left my house for the seat of government. The regret, accompanied with tears, which my family showed, made the parting very painful. My wife was so much affected that she could not dine with us. 18th. I was the only passenger in the stage from Exeter to Haverhill. The melancholy occasioned by leaving my family still clouds my mind. 19th. I walked to Cambridge, three miles, to visit my son. My children now engross my affections. Every month affords me new proofs of my attachment to them. I converse with William as with a companion; and he, in turn, makes me his confidant. I felt sad at parting with him. In



the evening I walked back to Boston. 20th. Took my seat in the mail stage, crowded with passengers, among whom were Nelson, Thompson, and Tenney, all members of Congress. We arrived at Providence early in the evening. My spirits were much animated by meeting my friends Bourne and Hunter of Rhode Island. 21st. Rode to New London, 22d. Arrived at New Haven. 23d. Stage so much crowded as to be very uncomfortable. Early in the evening arrived at Rye. 24th. Arrived at the City Hotel in New York. I immediately entered my name in the mail stage for Philadelphia; and having dined, I stepped into the ferry boat, and, in ten minutes, crossed the North River. No one was with me in the stage, till I arrived at Brunswick, and then only a young Briton. The day and night were stormy; but I had not a wet thread. 25th. At 8 o'clock, A. M., I arrived at Philadelphia but little fatigued. 26th. I was the only person who took the mail stage at 9 o'clock, A. M., for Baltimore. At half-past ten, P. M., passed, in a small boat with the mail only, the Susquehannah, and supped at eleven at Havre de Grace, in Maryland. There is only one other line of stages on this road. 27th. At 7 o'clock, A. M., arrived at Baltimore. At ten, took my seat with two other passengers for Washington, where I arrived at seven, P. M. In thirty-four hours I have safely performed a journey of more than one hundred and fifty miles, much less fatigued than I had reason to fear."

Here is the story of ten days' hard travel, in the mail stage, from New Hampshire to Washington, some of the way with one passenger, once or twice

crowded, there being on the route only one other line of stages!

The battle of Trafalgar had given England, at this period, the undisputed dominion of the sea; while the successes of Napoleon made France no less formidable on the land. The effect of this sudden accession of strength was to render both these powers indifferent to the good will of other nations, and ready, on the slightest pretence, to violate their rights. The encroachments of both on the neutral and other rights of the United States, together with the difficulties with Spain growing out of the Louisiana treaty, formed the chief objects of attention with the government at this time. Many of the proceedings of Congress on these subjects were in secret session. I find frequent allusions to them in the letters and journals of this period. The extracts which follow relate principally to these subjects.

December 1st, 1805:

“The Eastern States have an interest different from that of the Southern, and I really wish we might support that interest; not, indeed, in such a way as would endanger the peace and happiness of the Union. In Virginia, a Federalist is still a Virginian; but in New England, a Federalist does not feel or act as a New Englander.”

December 3d, 1805:

“The President’s message is more energetic and warlike than any he ever before sent to Congress. The state of the nation seems to demand it.”

December 15th :

“O. Cook, a member from Maine, told me that he had seen a private letter from James Bowdoin, our minister at Madrid, in which he writes that the French court would persuade Spain to settle our differences with that nation, to our full content, if we would make a present of a handsome sum of money to France. Samuel Smith, Senator from Maryland, told me in confidence, that our government would purchase of France and Spain their title to the Floridas. Our Federal gentlemen generally decline visiting the Republican members, and so *vice versa*. I visit my political opponents freely, converse with them, avoid disputes, and obtain much useful information from them. My rule is to ask many questions, to converse cautiously and negatively on important subjects, and to display, on subjects not important, much frankness. Whenever I answer a question, I do it correctly ; for I abhor duplicity. But a politician is bound to act cautiously, and not less to be on his guard in conversation with his opponents.”

He took strong ground in opposition to purchasing lands of the Indians ; both in justice to the Indians themselves, whom he considered as generally defrauded in these treaties, and from a desire to prevent the too rapid extension of our settlements, and the consequent dispersion of our people. He voted, during his whole term of service, against nearly all Indian

treaties; and on that with the Cherokees, ratified at this time, (December 19th, 1805,) his vote was the only one in the negative. To John Langdon he writes, December 16th:

“Against Great Britain we have serious complaints for the spoliations committed on our commerce. It will be difficult to adjust these; for the measures of that nation are parts of a premeditated system, to which she tenaciously adheres. Spain refuses to make compensation for spoliations committed on our commerce; and we have even more serious difficulties with her respecting the boundaries of Louisiana. Spain is weak, and her colonies in America are very accessible to us. But, in case of a war, I have no doubt France would support Spain against us.

To Thomas Lowndes of South Carolina, he writes, December 30th:

“The President’s message is more bold and manly than what we have been accustomed to hear from this administration. The spirit of the people demands energetic measures. It is confidently asserted that the administration is divided upon the measures which we ought to pursue both with Great Britain and Spain. In this desert city we have little company. The Tunisian ambassador, and the chiefs and warriors of some Indian tribes, who are now here, serve to attract curiosity for a day; but we want society, which cannot be obtained in this place.”

January 1st, 1806 :

“The Federalists generally declined calling on the President to-day with the compliments of the season, on the ground that they have not been invited to dine with him this session. I thought it a respect due from me to him as President, and therefore went. Mr. Adams, General Chittenden, and Mr. Taggart, were the only Federalists who attended the levee. I will never yield implicit obedience to the will of any man or party. I see much to approve, and much to condemn, in all parties. The course which I pursue must, and shall be, one that my judgment approves. I am determined, as a public man, to support every measure which to me appears right, let the party, or the motives of the man, who brings it forward be ever so wrong.”

The House had passed, in secret session, a bill granting the President two millions of dollars for the extraordinary expenses of the foreign intercourse, in other words, for the purchase of the Floridas; and this bill was now before the Senate. It was opposed by the vote of every Federal Senator, and did not receive the support of all the Republicans. Bradley of Vermont denounced it as intended to purchase men in Europe, rather than a province in America. Mr. Plumer's Register contains reports of the secret debates in the Senate, on this and other subjects connected with the foreign intercourse of the country. But their discussions belong to the history of the

country, rather than of the individual, and are therefore not quoted here. January 2d, 1806, he says :

“Mr. Jefferson intends to purchase the Floridas. The present clamor for warlike preparations, and the publication of supposed aggressions committed three years since, are made now to prepare the public for the purchase of the Floridas. I am assured, from high authority, that France will sell and guarantee both the Floridas to us for seven millions of dollars. At present I do not see any cause either for war or the purchase of more territory.”

On the resolution requesting the President to open negotiations with Great Britain on the subjects of dispute between the two countries, Mr. Plumer voted in the negative, on the ground that it is the duty of the President, and not of the Senate, to institute negotiations with foreign powers; and that, if the request is to be regarded as a command, it is an encroachment on the rights of the executive, while if, on the other hand, the President is at liberty to disregard it, the act is not merely useless, but exposes the Senate to contempt by the assumption of an authority which it has no means or ability to enforce.

“I have full evidence,” he adds, “that Mr. Jefferson has no wish or desire to involve the country in a war. It is, and has long been, his intention to negotiate. But he wished to remove from himself to the Senate, the responsibility of form-

ing a commercial treaty with Great Britain. He knew that the old one (Jay's,) occasioned much clamor, and had rendered a former administration unpopular. He, therefore, wished the Senate to place him in a situation that would not only justify, but render it necessary for him to treat. Many of his friends in the Senate were brought with difficulty to vote for the resolution. The Federal gentlemen, on the contrary, were all zealous for the measure. I was the only Federalist who voted against it. They wished to place the President in a situation where he would be bound not only to treat, but to adopt Jay's treaty,—a treaty which he and his friends had formerly branded with every odious epithet."

February 20th :

"I voted against the bill interdicting the trade with St. Domingo. I am not willing, as a Senator of this free and sovereign nation, to receive orders from Napoleon. I will never legislate under his threats. The laws and usages of nations justify the trade. Our interests urge us to pursue it. But a majority of the Senate decided otherwise. Several southern Senators said that the only thing which reconciled them to the bill was the fatal influence which the independence of the Haytiens would have on their own slaves."

March 5th:

"Mr. Randolph, long the administration leader in the House, has been for some time disaffected ; and he came out yesterday and to-day, in a most bitter philippic against the President and the Secretary of State, in the debate on Grey's resolution

to prohibit intercourse with Great Britain. He has fairly passed the Rubicon. Neither Jefferson nor Madison can, after this, be upon terms with him. He has set them and their measures at defiance. The attention of crowded galleries was fixed upon him. The Senators left their chamber to listen to his eloquence. I heard him for nearly two hours with very great pleasure. He is certainly a man of very great talents, and by far the best speaker in the House. I have, from my first acquaintance with him, ever considered him as a man of strict integrity. But his passions are strong, his prejudices violent and inveterate; and he wants that plain common sense, which renders a man at once safe and useful to himself and to others."

#### March 12th :

"I have for some time been convinced that long speeches in the Senate have, in most cases, very little influence on the vote. Our number is small, thirty-four when the Senate is full. The documents are printed and laid upon our tables; and those of us who examine for ourselves, and do not vote on the faith of others, form from them our opinions. Conversation follows, and a free exchange of sentiments. This either confirms or changes our previous opinions; and fixes the votes of others, who never give themselves the trouble of examination. Some are implicitly led by the administration; others have their file leaders. When a Senator is making a set speech, there is seldom a quorum within the bar; the chairs are deserted; and the question is, in the meantime, settled in conversation at the fireside. This conversation is often so loud as to interrupt the speaker. Under these cir-



cumstances, it is difficult for any man to make an eloquent and effective speech, when he knows he is not even listened to. Add to this that we have no stenographers, and seldom any hearers in the galleries. I therefore make no long and not many short speeches. Yet, my influence is by no means confined to my own vote. I am industrious in all private circles, expressing openly and frankly my opinions, and assigning my reasons; and I have frequently full and satisfactory evidence that my brother Senators, of all parties, have much confidence in my opinions; for they know that I am not governed by party views."

March 16th, 1806:

"It seems now to be agreed that Mr. Jefferson is not to be a candidate at the next Presidential election. The disclosure of this fact, thus early, is an unnecessary and imprudent letting down of his importance. It lessens greatly his influence on the government. Most men seek the rising rather than the setting sun. The more impartially I examine the character and conduct of Mr. Jefferson, the more favorably I think of his integrity. I have, I am inclined to think, done him injustice in this respect. Not that he is a model of wisdom or goodness. He has too much cunning for that, and, I suspect, no very nice or high sense of moral duty. A man of science, an infidel in religion, he is in everything else credulous to a fault. He has much *fine sense*, yet little of the *plain common sense*, so necessary for the practical statesman. Yet he has been, as a politician, eminently successful. How is this? More, it seems to me, by the popularity of his

doctrines, than by his strength of personal character, or by the practical wisdom of his public measures. These doctrines are, some of them, sound, more of them specious, and all of them addressed to the self-esteem and pride of the masses. He is, in theory, at least, eminently democratic, and such our people are fast becoming. Federalism has passed away. Republicanism is now the favorite designation; but Democracy is the true name for the direct, unbalanced, and unlimited rule of the many. This is not the government contemplated, either by the constitutions of the states or by that of the United States. But this is what we are coming to; and it is owing more to Mr. Jefferson than to any other man. How far this unmitigated power of the major vote will prove a blessing remains to be seen. In the meantime, this possession of all power by the people is true only in appearance. The real power here, as every where else, is in the hands of a few. Jefferson wishes Madison to be his successor. Randolph is against Madison, and in favor of Monroe."

March 28th :

"This day a bill passed the Senate in favor of the Yazoo speculators. I was the only Senator from New England who voted against it. But, though deserted by every man from New England and every Federalist in the Senate, I never gave a vote with a more thorough conviction of its propriety than that against this bill."

April 8th :

"With John Quincy Adams I am intimate. He is a

man of much information, a correct and animated, speaker,— of strong passions, and of course, subject to strong prejudices, but a man of strict, undeviating integrity. He is not the slave of party, nor influenced by names; but free, independent, and occasionally eccentric.”

April 13th:

“The ratification of the treaty with Tripoli depended upon my exertions, and without them would have failed. By those exertions more than one vote was obtained for the treaty, which, after all, was barely carried. The Federalists, except Mr. Adams and myself, opposed it. Under the influence of Eaton’s statements, I, at one time, thought the treaty a bad one, but subsequent inquiry convinced me that it ought to be ratified.”

Against the leading measures of the session, the two millions of secret service money, and the partial non-intercourse with England, he had indeed, voted, but in no spirit of indiscriminate or factious opposition. There were only seven Federalists in the Senate, and of these neither Adams nor Plumer could be considered as a reliable party man. Yet even this small number gave some trouble to the President. “Seven Federalists,” he says, “voting always in phalanx, and joined by some discontented Republicans, some oblique ones, some capricious, have so often made a majority as to produce very serious embarrassments.” In the House the opposition was not relatively

stronger, though aided by the accession of Randolph. He had, indeed, more talent as a debater, than any other member; but he ultimately carried with him not more than six or seven Republican votes,—so entire was the control which Mr. Jefferson retained to the last over the movements of the party. Randolph was denounced as a Federalist; and the powerful administration leader became thenceforth the brilliant and sarcastic, but powerless opposition orator, fighting, however, always on his own ground, with very little concert with others. Four years on the administration side were preceded and followed by a life of opposition. He had, as I heard him say, many years after, as great an alacrity in getting into an opposition as Falstaff had in sinking. This was, indeed, his true vocation, that of a fault-finder; and there was seldom a time in which his peculiar talent in that respect was not in full requisition. Like Swift, he had

“too much satire in his vein,  
And seemed determined not to starve it,  
Because no age could more deserve it.”

The session closed on the 21st of April, and Mr. Plumer reached home on the 30th. May 15th, he writes:

“Visited this week, my friends and acquaintances at Portsmouth, by whom I was received with much kindness and

attention. Called, among others, upon Governor Langdon, who treated me with much politeness. He is re-elected without any real rival, and a large majority of the legislature is of his party. All is now calm and quiet in the state. The Federalists are silent and submissive. The Democrats are obliged to own that the change of men has produced little change in public measures. A few men have got offices under Langdon, who would not have obtained them under Gilman; and that is all,—much indeed to some of them, even a justice's commission, but little to any body else. I was never much of a party man, and am becoming less of one every day."

The Republicans were now in full possession of the state government; and in June they elected Nahum Parker to the United States Senate, for the next Congress. Mr. Plumer was not a candidate for re-election. "I am," he said, in noticing this event, "too much of a Federalist to have Republican votes, and too much of a Republican deeply to interest Federalists in my favor." "At the election of members of the tenth Congress, August 25th, I attended," he says, "the meeting, and voted for a ticket of my own, selecting two Democrats and three Federalists—honest men and true, moderate, but firm in their opinions—men that I should not be ashamed to meet in the councils of the nation." This vote for two Democrats and three Federalists, though determined chiefly by the merits of the individuals selected, was a not inapt

representation of his feelings at this time. He had ceased to feel any strong party attachment, and looked to the merits of measures, more than to their authors, for the degree of favor with which he should regard them.

His last session in the Senate was now approaching. It need not detain us long. He took his seat on the first day of December, 1806; and his term of service closed with the session, on the 3d of March, 1807. The first measure of the session was an act to suspend the operation of the non-importation law of the last session. This was on the recommendation of the President, who announced the probable conclusion of a treaty with England. This treaty was received about the close of the session; but, not being satisfactory to the President, it was rejected by him, without being communicated to the Senate. On this subject I find the following entry in my father's Register, March 4th, 1807:

“I called upon the President this morning. He told me he had not received the treaty with Great Britain; but that Mr. Erskine, the British minister, had received a copy of it, and had politely sent it to him. The President said he disapproved of it, for it contained no stipulation for the protection of American seamen; and that, had he received the treaty ten days ago, he should not have laid it before the Senate.”

The movements of Aaron Burr formed, during this

session, the most prominent object of curiosity and attention,—of alternate wonder, incredulity and alarm. What was then doubtful, as to the designs of this mysterious conspirator, the lapse of nearly fifty years leaves still in obscurity. He had not at first despaired of obtaining, from the hopes or the fears of the administration, some appointment, which should imply his possession of the public confidence.

“This evening,” says Mr. Plumer, (January 15th, 1807,) “my colleague, Nicholas Gilman, told me that Mr. Jefferson, a few days since, informed him that, the last winter, Burr made several visits to him, and requested, as he was out of employment, that the President would give him some appointment, as that of minister to some foreign court; that at the last visit, Burr pressed the subject; and that the President then replied, ‘You once had my confidence, but the people and myself have now lost the confidence we once had in you. I cannot, therefore, gratify you with an appointment.’ Burr then intimated to the President that he would find that he had the power to do him much injury.”

He afterwards talked of offering himself for a seat in Congress from Tennessee, where it was supposed he could be elected. His aims, however, evidently pointed at something higher. Desperate in his fortunes, his irregular ambition was now apparently seeking its outlet in schemes of conquest and revolution in the West. His own account of the matter

was, that he was building boats, and enlisting men, with a view to take possession of a tract of land on the Red River in Louisiana, and to form a settlement there. By others, including the President, it was believed that his object was a dismemberment of the Union, and the establishment of an empire in the South West; and that with this view he would first seize on New Orleans, and thence push his fortunes against the Spaniards in Mexico. "He meant," said Jefferson, July 14, 1807, "to separate the Western States from us, to add Mexico to them, place himself at their head, and establish what he would call an energetic government." Of this long-dreaded expedition not much that was tangible ever appeared, beyond a few men floating in flat boats down the river towards New Orleans. These boats were seized by order of the government, and the men were dispersed. Burr was afterwards tried in Virginia, before Chief Justice Marshall, on a charge of treason, and acquitted for want of proof of any overt act. And thus ended an enterprise, which was thought for a time to threaten the safety of the Union. The subject of this memoir was slow to believe in the many rumors which were circulated on the subject.

"We have many reports," he said, December 9th, 1806, "but very little correct information, respecting Burr's movements. I do not know enough of his late conduct to form an



opinion as to what are his objects in the Western States. But I am too well acquainted with the man to believe him guilty of half the absurdities ascribed to him. He is capable of much wickedness, but not of such folly as they impute to him."

Yet such is the contagion of example that, under the excitement of these rumors, he voted, (January 23d,) for the bill to suspend for three months the privilege of the writ of *habeas corpus*, which passed the Senate almost unanimously, but was rejected with almost equal unanimity by the House. Subsequent events showed that there was no occasion for this suspension, and he expressed, before the close of the session, his surprise and regret at having voted for it.

The most permanently important measure of the session was the act prohibiting the importation of slaves into the United States, after the first of January, 1808. Two other measures, of this session, then little regarded, have since led to important results,—the one an act to provide for surveying the coasts of the United States, a survey which, involving great expense, and requiring much time, is not yet completed; the other, a call of the Senate on the Secretary of the Treasury to report at the next session a system of internal improvements for the United States. This latter was the first step in a series of

measures, which have since entered largely into the civil history of the country, and the course of its politics. Mr. Plumer voted for all these acts, foreseeing as little as others the final results to which the two latter measures would lead, but deeming them clearly within the constitutional powers of the government, and conducive to the public good.

Henry Clay came, for the first time, this session, into Congress. I find in Mr. Plumer's papers several notices of him.

December 29th, 1806 :

"This day, Henry Clay, the successor of John Adair, was qualified, and took his seat in the Senate. He is a young lawyer. His stature is tall and slender. I had much conversation with him ; and it afforded me much pleasure. He is intelligent, and appears frank and candid. His address is good and his manners easy."

January 2d, 1807 :

"Mr. Clay in the Senate. He appears to be an easy, eloquent and graceful speaker."

January 12th :

"Mr. Clay is a young lawyer, of considerable eminence. He came here as Senator, for this session only. His

clients, who have suits depending in the Supreme Court, gave him a purse of three thousand dollars to attend to their suits here. He would not be a candidate for the next Congress, as it would materially injure his business. But it was a convenient and money-making business for him to attend this session. This day Henry Clay, and Matthew Clay, his uncle, joined the party at our lodgings. They are Republicans, and I am glad they have come. I dislike this setting up of partition walls between Members of Congress, because some are Federalists and others Republicans. The more we associate together, the more favorably shall we think of each other."

It had been early an object with Mr. Plumer, to bring about this social union at the same boarding-house between members of the different parties; and he succeeded, this session, in forming a mess of this character, of liberal minded men from both parties, much to his satisfaction. Clay came readily into it.

January 23d :

"Henry Clay told me he thought there was no occasion for suspending the writ of *habeas corpus*; but the delicate situation in which he stood, as late counsel for Burr, would not only prevent him from opposing it, but oblige him to vote for it, which he did."

January 29th :

“On the second reading of the bill to erect a bridge over the Potomac, Henry Clay made an eloquent and forcible speech against the postponement. He animadverted with great severity on Tracy’s observations. As a speaker, Clay is animated, his language bold and flowery. He is prompt and ready at reply, but he does not reason with the force and precision of Bayard.”

February 13th :

“Henry Clay is a man of pleasure ; fond of amusements. He is a great favorite with the ladies ; is in all parties of pleasure ; out almost every evening ; reads but little ; indeed he said he meant this session should be a tour of pleasure. He is a man of talents ; is eloquent, but not nice or accurate in his distinctions. He declaims more than he reasons. He is a gentlemanly and pleasant companion ; a man of honor and integrity.”

The following extract shows a state of things different from any which has since existed among the high officers of the government at Washington :

March 1st :

“The Heads of Departments visit few members of either House. Mr. Madison, for two or three years past, has

entirely omitted even the ceremony of leaving cards at their lodgings. He invites very few to dine with him. Mr. Gallatin leaves no cards, makes no visits, scarcely ever invites a member to dine, or has even a tea party. General Dearborn and Robert Smith, Secretaries of War and the Navy, leave cards with all the members, but invite few to tea, and scarcely any to dine. Mr. Clinton, the Vice-President, comes to the city in his own carriage, accompanied by one of his daughters and a servant ; but lives out at board, like a common member ; keeps no table, nor invites any one to dine. These gentlemen do not live in a style suited to the dignity of their offices."

After the close of his senatorial service, though he lived more than forty years, Mr. Plumer never revisited the seat of government. He, however, always looked back with satisfaction and pleasure to the time which he spent there. With his habits of vigilant observation, and his keen insight of character, he had acquired a fund of curious anecdotes, and rich stores of information, respecting the distinguished men of the times, the prominent lawyers and politicians of the country, which added, in after years, fresh charms to his conversation, abounding, as it often did, with curious facts and instructive remarks on life and manners, derived from this source. Though he found there no lawyers whom he deemed superior to his old friends and opponents, Parsons, Dexter and Mason, he formed the acquaintance of jurists, such as

Marshall, Patterson and Chase, on the bench, and Martin, Harper, Lewis and Hopkinson, at the bar, with others, then noted, but now little known, who represented not unworthily the legal profession in the courts of the Union. If lawyers are unknown, or soon forgotten, the race of politicians is perhaps not much longer lived. Yet he associated with many there who are not yet quite forgotten, and with some whose memory will not wholly perish. He witnessed, at his first session, the departing glories of Ross and Morris, and, at a later period, the rising splendors of Clinton, Clay and Adams. Randolph was at the height of his power and popularity, and in the prime vigor of his peculiar and eccentric genius. Tracy, Griswold, Bayard, Taylor, Giles and Smith were able public men, though not brilliant debaters. In the Cabinet, Madison was learned in all questions of the law of nations; modest and unassuming, with a feminine grace of manner; yet firm and, at times, almost stubborn in his opinions; strong in the powers of a clear, discriminating mind, improved by study, and enlightened by experience; yet less expert in the arts of policy than his able and adroit colleague of the Treasury Department. Sagacious in design, and persuasive in manner and address, Mr. Gallatin had few equals in his knowledge of human nature, or the skill with which he combined the means necessary for the accomplishment of his designs. In Mr.

Plumer's opinion, the President owed much of the success of his administration to the counsels of these two able ministers. Without their restraining influence, his brilliant, but less balanced mind might have betrayed itself more frequently in such vagaries as his scheme of gun-boats and dry-docks, or his vision of salt mountains, and in the rancor of his personal and political animosities.

## CHAPTER IX.

### NEW POLITICAL RELATIONS.

RETIRING from the public service at the age of forty-eight, Mr. Plumer did not feel that the labors of his life were yet ended. The vigor of his mind was unimpaired, and its activity had never been greater. "Labor," he said, "is not irksome to me, and I well know that the busiest life is also the most happy." He did not, however, wish to return to his profession as a lawyer. He went, indeed, occasionally into court, at the request of an old client; but he declined business from other persons. His health, though better than it had been five years before, was not, in his opinion, equal to the labors and the excitements of a lawyer in full practice. He had, while at Washington, collected a set, nearly complete, of the public documents of the government; and this collection, which ultimately extended to four or five hundred volumes, was, probably, for the period which it embraced, the most nearly complete in the United States. So assiduous were his labors in this respect, spending days and nights in selecting and sorting his materials, from cartloads of useless lumber, piled in.



obscure vaults, and rotting in damp and unventilated chambers, that scarcely a paper published by Congress had escaped his research. This collection of State papers suggested to him the idea of writing a history of the government, from the Declaration of Independence to the close of Mr. Jefferson's administration. He afterwards enlarged the plan, so as to embrace a general history of the country from its first discovery to his own time; a work, which he justly regarded as affording ample occupation for the longest life which he could hope to enjoy. He had, however, from the first, many misgivings as to his competency for the task. "I am," he said, "no scholar. Hardly master of my own language, I can read no other. It requires much time for me to express my ideas on paper, so as to satisfy myself, though I find that I now compose with greater facility than formerly." He began with drawing out a sketch, or plan of what his work should contain. This extended to seventy-two pages, and embraced such a variety of topics as showed that little or nothing, deserving notice, had escaped his attention. It was evident, however, that he looked to law, politics, the civil institutions of the country, and the lives and characters of its statesmen and law-givers, more than to the movements of armies and the incidents of war.

He had gone so far, before leaving Washington, as to converse on the subject with the President, and

other officers of the government, from whom he received promises of assistance, and permission to examine the public archives. He now determined to devote himself to the work, and to allow no other pursuit to interfere permanently with its prosecution. The spirit in which he entered on this important undertaking was well expressed in a letter (May 1st, 1807,) to Mr. Jefferson. "It is my first determination, like a faithful witness in court, to tell *the truth, the whole truth, and nothing but the truth*, regardless of the applause or the censure of existing parties. This year I shall devote to the settling of my pecuniary affairs, to arranging my documents and manuscripts, and making indexes and references to them. The next year I hope to commence my work, and to spend the winter at Washington, in procuring further information from the public offices."

To John Q. Adams, (July 11, 1809,) he writes: "My leisure hours are now devoted to my history of the United States. I have made but little progress in the composition, the rough sketch of my introduction being not yet finished. To this work I intend sedulously to devote the remainder of my days."

To tell the truth with the conscientious fidelity of a witness under oath, it was, above all things, necessary that he should first know the truth. With this view he entered on a comprehensive course of careful and critical reading in American history; resorting

to the original authorities, in all cases where they were within his reach ; taking nothing for granted, or at second hand, comparing adverse statements, sifting authorities, and thus deducing historic truth as the slow result of patient investigation. It was not till he had gone, in this way, through all the early writers, and compared them with the original documents, so far as these could be obtained, that he commenced the labor of composition. In several preliminary chapters, he unfolded, first, the state of society in Europe, at the period of the discovery of America ; and then traced the progress of navigation and settlement along the coast, from Canada to Florida, down to the first permanent lodgement effected by the English in Virginia. He then entered on the early history of that colony ; but had made little progress in it, when his labors as an historian came finally to a close. He had written what would make about half a volume of the ordinary octavo size. But, while intent upon this history of the past, he did not altogether lost sight of the present. His interest in passing events grew daily stronger, with the increasing aggressions of France and England on the commerce and maritime rights of the United States. To explain his return to public life, and to trace the new connections into which he now entered, we must go back to the close of his senatorial term, and thence follow

down the course of events to the period of his election as Governor of New Hampshire.

The administration of Mr. Jefferson, so prosperous at its commencement, was clouded and overcast towards its close, by the injustice of foreign powers to the United States. This rendered necessary, in the opinion of the government, a system of non-intercourse and embargo laws, and led finally to a war with England. The British order of blockade of May 16th, 1806, was the cause alleged by Napoleon for issuing his Berlin Decree of November 21st, 1806. This was followed by the British Orders in Council of January 7th, and November 11th, 1807. The Milan Decree of Napoleon was dated December 17th, 1807. The effect of these British orders and French decrees was well-nigh to destroy all neutral commerce, of which the largest portion was, at this time, in the hands of American merchants. More than a hundred millions of American property were swept from the ocean, or confiscated in port. With England there was the additional question of impressment of seamen from American vessels, complicated by the attack on the Chesapeake, which took place June 22d, 1807. The question presented by this state of things to the people of the United States, was, whether they should submit in silence to these unjust aggressions; and, if not, in what manner they should be met, and repelled. Mr. Plumer's views and feelings on these

subjects will be seen in the following extracts from his letters and other papers written at the time.

In a letter to Thomas Cogswell, August 3d, 1807, he says :

“The conduct of Humphries, the Captain of the Leopard, in attacking the Chesapeake, and taking from her, by force, four of our seamen, was a direct assault upon our sovereignty. Even if they were British subjects, instead of American citizens, that would not justify an attack upon the national flag. If the British government justifies the conduct of Humphries, we ought, and, I trust, shall, declare war against her. I love peace ; I would suffer much to preserve it ; but war, with all its horrors, is preferable to degradation. One insult, meanly submitted to, will necessarily produce another. The conduct of Great Britain towards the United States, for some years past, has been hostile. It is sound policy in our government to demand an explicit stipulation that our flag, mercantile, as well as national, shall protect those who sail under it. If this is refused, and war should grow out of our present embarrassments, I trust we shall maintain it with a spirit worthy of freemen.”

To Martin Chittenden, a member of Congress from Vermont, and afterwards Governor of that state, he wrote, December 5th, 1807 :

“If the honor and dignity of our nation can be preserved, I hope we shall avoid war. I would sooner abandon commerce, for a time, than involve our country in the calamities inseparable from war. Our merchants, in that case, would clamor ;

but I would leave them to protect their property by voluntary embargoes. If they send their ships to sea, let them do it at their own risk, and not look to the government to be their insurers. Yet, as much as I deprecate war, I should prefer it to national degradation."

This idea of letting commerce take care of itself was at the time extensively entertained. The merchants preferred it to an embargo. Trade embarrassed, but not altogether destroyed by orders and decrees was, at this time, a game of hazard, in which, if the losses were frequent, the gains were enormous. War was, indeed, the obvious, almost inevitable result of the state of things which then existed; but for this measure the country was not prepared, either morally, by a belief in its necessity, or physically, by the armaments necessary to carry it on with success. The measure adopted was, therefore, that of an embargo. This act, December 22d, 1807, was defended by its friends on various grounds; first, and most successfully, as a precautionary measure, to secure our shipping and produce from the grasp of the belligerents, till we could prepare for war; secondly, as the best means of compelling France and England to respect our rights; and thirdly, as a withdrawal from the scenes of European contest, till the nations of Europe should return once more to their wonted relations of peace and commerce. Those who supported it upon this latter ground, held that the war

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in Europe would not be of long continuance; and that while it lasted it was our true policy, though at the loss of some property, and perhaps of some reputation for the time, to keep "out of the wind of such commotion,"—safe at least, if inglorious, within our own borders. At an earlier period, Fisher Ames had said, (January 27, 1794,) "Though America is rising with a giant's strength, its bones are yet but cartilages. By delaying the beginning of a conflict, we insure the victory." The great majority, however, of those who supported for years the policy of the embargo and non-intercourse laws did it upon the ground that they would compel both France and England ultimately to do us justice; our commerce being desirable to the former, and essential to the latter. Mr. Plumer's opinions on this subject were expressed in a letter, (dated January 26th, 1808,) to Samuel M. Mitchell, a member of Congress from New York.

"Our merchants complain of the embargo as a serious evil; it oppresses our seamen, many of whom are in want of bread, and our farmers feel its pressure in the reduced price of the produce of their lands. When Congress imposed it, they possessed, I presume, information, which it was then improper to disclose, but which, if known, would have prevented prudent men from hazarding their ships on the ocean. When, from any source, this danger shall be known to our merchants, will the embargo be continued? Or is it designed

to operate against other nations? If the latter is the object, I fear, while we are chastising others with *whips*, we shall be scourging ourselves with *scorpions*."

In August, 1808, Mr. Plumer voted for the Republican ticket for members of Congress, and in November, for the Madison electors for President. "Though Madison was not," he says, "the man I should have selected for President, had I possessed the sole power, I thought him the best man that could be chosen, and therefore used my influence, and gave my vote for him." In the mean time, the opposition to the restrictive policy of the government had become so strong, particularly in New England, that Congress, at its next session, repealed the embargo, and adopted in its place a system of non-intercourse with France and England. "The alternative," said Mr. Jefferson, "was repeal or civil war." "Congress," said Mr. Plumer, "apprehended, not without reason, that, if they did not repeal the embargo laws, some, if not all of the New England States, would recede from the Union."

Though, as we have seen, Mr. Plumer did not much like the embargo and non-intercourse, or, as it was then called, the restrictive system, he thought himself bound to support his own government against the hostile aggressions of foreign powers; and would, therefore, no longer go with his old asso-



ciates of the Federal party, in their indiscriminate opposition to all the measures of the administration. Unsuccessful in their party movements, and exasperated by their long exclusion from office, they had acquired, with the feelings of a minority, the usual faults of an opposition. The Republicans, on the contrary, had silently withdrawn from many of the untenable positions which they had originally occupied; and, under the burdens of government, with the responsibilities of office upon them, were saying and doing many things which they had formerly condemned, when said or done by the Federal party then in power. Amidst these changes of conduct and opinion in the two great political parties, Mr. Plumer found himself once more, what he had originally been, a supporter of the government; and, above all, a ready opponent of every foreign aggression on the rights of his country. It was this duty of supporting the government in its action against unjust pressure from abroad, which formed the chief tie between him and the party with which he now acted. Another motive, however, perhaps equally strong with him, was his belief that certain leading Federalists of New England still cherished their old design of a separation of the states. He saw much in the spirit of the times and the course of events, calculated to give encouragement, if not success, to their exertions in a cause, which he had himself once favored, but the

success of which he now regarded as the greatest misfortune which could befall the country. That there was danger of this he firmly believed. Nothing, indeed, seemed so likely to drive the people of the north to the despair which precedes revolt, as the annihilation of their commerce, produced by the embargo, non-intercourse and other kindred measures. The embargo had been pronounced by the highest Federalist authorities, legal, executive and legislative, to be unconstitutional and void; and resistance to it was alternately threatened and predicted. Threats of disunion and civil war were loudly uttered, in many quarters, by men of high standing and wide influence in the community; and they were received with apparent favor by many, who, in ordinary times, would have shrunk from them with abhorrence. Mr. Plumer saw, therefore, in the success of Federalism, as then organized and directed, great danger to the union of the states; and he believed that this danger could be averted only by the triumph of the Republican, or, as he now regarded it, the national party. In the party sense of the word, he had ceased to be a Federalist; and, as no man can act with effect in public affairs, except in connection with others, he soon found himself acting with the Republicans, against his old associates of the Federal party. Instead, however, of an increased faith in the popular

wisdom or virtue, his old doubts seem, at this time, to have come over him with fresh force.

“It is a question,” he writes, “which I often contemplate with gloomy apprehensions, whether a government, founded upon town meetings, can be permanent. I hope a Republic will always exist in this country ; but I fear that our government, like others which have preceded it, will terminate, if not in monarchy, at least in one of more energy, and less freedom, than the present. Much I fear that a system of pure republicanism is too pure, too liberal, and too good for human nature. All other republics have ended first in anarchy, and then in despotism. What right have we to expect an exemption in our favor ?”

To Nicholas Gilman, then Senator from New Hampshire, he wrote, January 24th, 1809 :

“At no period of my life have I felt more anxiety for my country than the present. I apprehend more real danger from our own internal divisions than from the belligerent powers of Europe. In New England, and even in New York, there appears a spirit hostile to the existence of our own government. Committees of safety and correspondence, the precursors of revolution, are appointed in several towns in Massachusetts. Numbers who, a few months since, would have revolted with horror at the fatal idea of the dissolution of the Union, now converse freely upon it, as an event rather to be desired than avoided.”

This fear for the safety of the Union was by no means peculiar to Mr. Plumer. The opinion of John Q. Adams has already been noticed. Joseph Story, then a member of Congress, and afterwards Judge of the Supreme Court, thus writes to a friend, (January 4th, 1809,) "If I may judge from the letters I have seen from the various districts of Massachusetts, it is a prevalent opinion there, and in truth many friends from the New England States write us, that there is great danger of resistance, and great probability that the Essex junto have resolved to attempt a separation of the Eastern States from the Union; and that, if the embargo continues, their plan may receive support from our yeomanry." "The New England States," said Lieutenant Governor Lincoln to the Massachusetts Legislature, "have been represented as ripening for a separation from the Union. Such suggestions, we trust, are unfounded. It is to be lamented that any color has ever been furnished for such alarms. If we must have conflicts, let them be with foreign enemies." To this latter suggestion, the House of Representatives replied, "Let Congress repeal the embargo, annul the Convention with France, forbid all intercourse with the French dominions, arm our public and private ships, and unfurl the Republican banner against the Imperial standard." November 21st, 1808, Mr. Lloyd said in the United States Senate, that if "the embargo was

not repealed, the spark of present discontent would, he feared, be fanned into a flame of rebellion." November 30th, 1808, speaking of the embargo, Mr. Pickering reminded the Senate that the *revolution*, of which Boston was the cradle, began in New England; and that "one of the reasons assigned for the Declaration of Independence was the *cutting off our trade with all the world*." This was during the embargo, "an act," said Mr. Hillhouse, December 21, 1808, in the Senate, "containing unconstitutional provisions to which the people *are not bound to submit, and to which, in my opinion, they will not submit*." "A storm seems," he says, "to be gathering, which portends, not a tempest on the ocean, but domestic convulsions." The Massachusetts Legislature followed up this opinion, February, 1809, declaring the embargo, "unjust, oppressive, and unconstitutional, and *not legally binding on the citizens of the state*." They did not, however, recommend forcible resistance to it. In view of these movements in New England, De Witt Clinton said, (January 31st, 1809,) in the Senate of New York: "The opposition in the Eastern States bids defiance to the laws, and threatens a dissolution of the Union. The match appears to be now lighted to produce an explosion which will overwhelm us with all the horrors of a civil war." September 27th, 1808, John Adams wrote to Benjamin Rush: "The Union I fear, is in some danger. If we can preserve it

entire, we may preserve our Republic; but if the Union is broken, we become petty principalities, little better than feudatories, one of France, the other of England."

Nor was it among heated partizans alone, that these views were entertained. "A dissolution of the Union," writes Mr. Erskine, the British minister at Washington, to his government, (February 15th, 1809,) "has been for some time talked of, and has, of late, as I have heard, been seriously contemplated by many of the leading people of the Eastern division." It appeared afterwards that John Henry, a British agent from the Governor of Canada, was, about this time, at Boston, watching the progress of events, and fomenting the popular discontents. As the result of his inquiries, he stated to his employers, (March 7th, 1809,) that, in case of a war with England, Massachusetts would give the tone to the neighboring states, "invite a Congress to be composed of delegates from the Federalist States, and erect a separate government for their common defence and common interest." But this, he says, is "an unpopular topic, the common people still regarding the Constitution of the United States with complacency." Writing from Boston, he afterwards, (April 13th, 1809,) speaks of "the men of talents and property there who now prefer the chance of maintaining their party by

open resistance, and a final separation, to an alliance with France and a war with England."

This may be the most convenient place for introducing the following characteristic letter from John Quincy Adams to Mr. Plumer:

"August 16th, 1809.

"MY DEAR SIR,—Among the letters which I received a few days before my departure from Boston, and which the precipitation with which I was obliged to hasten it prevented me from answering, I am almost ashamed to acknowledge, was your very kind favor of July. I say, *ashamed to acknowledge*, because in examining rigorously the causes which occasioned this omission, I cannot but say to myself, and am sensible you will have reason to think, that, however short my time was, I ought to have made an hour, at least, for the expression of grateful sensibility to the obliging attentions of friendship.

"To repair as much as remains within my power the fault from which I cannot altogether discharge my own mind, I take at least the earliest opportunity after my embarkation to do what ought to have preceded it, and to assure you that while absent from our country I shall feel myself highly indebted to you for the benefit of your correspondence, whenever your own convenience, and the opportunities of a navigation, so restricted as I am afraid ours will too long continue to be, may permit. And, in telling you how much I shall prize your correspondence, independently of the gratification which you will readily conceive an exile from his native land must derive from every token of remembrance coming

from those whom he most highly values in it, I may add, that the confidence with which I shall receive from you either intelligence or opinions, will be founded on a sentiment very deeply rooted in my experience and observation, that you see more clearly and judge more coolly of men and things relating to our political world, than almost any other man with whom it has ever been my fortune to act in public life. The spirit of party has become so inveterate and so virulent in our country, it has so totally absorbed the understanding and the heart of almost all the distinguished men among us, that I, who cannot cease to consider all the individuals of both parties as my countrymen, who can neither approve nor disapprove in a lump either of the men or the measures of either party, who see both sides claiming an exclusive privilege of patriotism and using against each other weapons of political warfare which I never can handle, cannot but cherish that congenial spirit, which has always preserved itself pure from the infectious vapors of faction ; which considers temperance as one of the first political duties ; and which can perceive a very distinct shade of difference between political candor and political hypocrisy.

“ It affords me constant pleasure to recollect, that the history of our country has fallen into the hands of such a man. For, as impartiality lies at the bottom of all historic truth, I have often been not without my apprehensions, that no true history of our own times would appear at least in the course of our age ; that we should have nothing but Federalist histories or Republican histories, New England histories or Virginia histories. We are, indeed, not over stocked with men, capable even of this, who have acted a part in the public



affairs of our Union. But of men, who unite both qualifications—that of having had a practical knowledge of our affairs, and that of possessing a mind capable of impartiality in summing up the merits of our governments, administrations, oppositions, and people—I know not another man, with whom I have ever had the opportunity of forming an acquaintance, on the correctness of whose narrative I should so implicitly rely.

“Such an historian, and I take delight in the belief, will be a legislator without needing constituents. You have so long meditated upon your plan, and so much longer upon the duties of man in society, as they apply to the transactions of your own life, that I am well assured your work will carry a profound political moral with it. And I hope,—though upon this subject I have had no hint from you, which can ascertain that your view of the subject is the same as mine,—but I hope that the moral of your history will be the indissoluble union of the North American continent. The plan of a New England combination more closely cemented than by the general ties of the Federal government,—a combination, first to rule the whole, and, if that should prove impracticable, to separate from the rest,—has been so far matured, and has engaged the studies, the intrigues and the ambition of so many leading men in our part of the country, that I think it will eventually produce mischievous consequences, unless seasonably and effectually discountenanced by men of more influence and of more comprehensive views. To rise upon a division system is unfortunately one of the most obvious, and apparently easy courses, which plays before the eyes of individual ambition, in every section of the Union. It is the natural resource of all

the small statesmen, who, feeling like Cæsar, and finding that Rome is too large an object for their grasp, would strike off a village, where they might aspire to the first station without exposing themselves to derision. This has been the most powerful operative impulse upon all the disunionists, from the first Kentucky conspiracy down to the negotiations between Massachusetts, Connecticut and New Hampshire, of the last winter and spring. Considered merely as a purpose of ambition, the great objection against this scheme is its littleness. Instead of adding all the tribes of Israel to Judah and Benjamin, like David, it is walking in the ways of Jeroboam, the son of Nebat, who made Israel to sin, by breaking off Samaria from Jerusalem. Looking at it in reference to moral considerations, it is detestable, as it certainly cannot be accomplished by open and honorable means. Its abettors are obliged to disavow their real designs, to affect others, to practice continual deception, and to work upon the basest materials,—the selfish and dissocial passions of their instruments. Politically speaking, it is as injudicious, as it is contracted and dishonorable. The American people are not prepared for disunion, far less so than these people imagine. They will continue to resist and to defeat every attempt of that character, as they uniformly have done; and such projects will still terminate in the ruin of their projectors. But the ill consequences of this turbulent spirit will be to keep the country in a state of constant agitation, to embitter the local prejudices of fellow citizens against each other, and to diminish the influence which we ought to have, and might have in the general councils of the Union.

“To counteract the tendency of these partial and foolish combinations, I know nothing so likely to have a decisive influence as historical works, honestly and judiciously executed. For, if the doctrine of Union were a new one, now first to be inculcated, our history would furnish the most decisive arguments in its favor. It is no longer the great lesson to be learned, but the fundamental maxim to be confirmed, and every species of influence should be exerted by all genuine American patriots to make its importance more highly estimated and more unquestionably established. I should have been glad to see a little more of this tendency in Marshall’s Life of Washington than I did find. For Washington was emphatically the man of the whole Union ; and I see a little too much of the Virginian in Marshall. Perhaps it was unavoidable ; and perhaps *you* will find it equally impossible to avoid disclosing the New England man. I have enough of that feeling myself most ardently to wish, that the highest example of a truly liberal and comprehensive American political system may be exhibited by New England men.

“I regret that I could not have the pleasure of a full and confidential personal interview with you before my departure. My father, I am sure, will be happy to see you at Quincy, and to furnish you any materials in his power. He has been for the last three months publishing papers, which I think will not be without their use to your undertaking.

“Adieu, my dear sir. I write you this letter on the Grand Bank of Newfoundland, after passing the night in catching cod, of which, in the interval of a six hours’ calm, we have caught upwards of sixty. In the association of ideas, there

is no very unnatural transition from cod fishing on the Grand Bank to the History of the United States. No man will, I trust, be better able than yourself to supply the intermediate links in this singular concatenation. Let me only hope that it will appear to you as natural a transition, as that from any subject whatsoever, to the assurance of the respect and attachment, with which I subscribe myself your friend, and humble servant,

“JOHN QUINCY ADAMS.”

In the divided state of public opinion in New Hampshire, the position of a man of Mr Plumer's talents and standing was not a matter of indifference to either party. His new friends were anxious to bring him once more into public life. They accordingly nominated him (Feb. 15, 1810,) as the Republican candidate for Senator, in the district where he resided. He was unwilling again to enter on the field of party politics, and had taken some pains to secure the nomination of another person; but the unanimous call of the nominating convention overcame his reluctance; and, having once assumed his ground, he entered with his usual activity into the contest, and contributed more, probably, than any other person in the state, to the success of the party in the March elections. His old friend, Judge Smith, between whom and himself a personal difference had occurred, heightened, probably, on both sides, by

party feeling, had, the previous year, been elected Governor, and was now a candidate for re-election. But the Republicans carried the state; and Langdon was restored to his old office, with Republican majorities in every branch of the government. Mr. Plumer's district was considered a doubtful one; and the attack of the Federalists on their new opponent was of the most unscrupulous and envenomed character. He received, on this occasion, as his successor in the Senate, Nahum Parker, said, "as many curses as a scape-goat could wag with." He was sustained, however, by the Republicans with equal zeal, and was elected by a very decided majority. The rival candidate was George Sullivan.

In announcing his election to his friend Adams, he said, (May 18th,) "Much against my inclination, I was constrained to be a candidate; and am elected a member of the State Senate. This has, and will, too much divert my attention from my historical pursuits, which, however, I shall not long neglect. I bring to that work a mind purely American, devoted to neither of the parties which now unfortunately agitate and divide the country, in both of which I see much to censure and condemn." He had not yet given up the hope to proceed with this work. He had recently written on the subject to Mr. Jefferson, who said in reply, July 12th, 1810:

“I am happy to hear you have entered on a work so interesting to every American as the history of our country. That of the last thirty or forty years admits, certainly, of much improvement on any thing which has yet appeared; and whenever it shall be written with truth and candor, and with that friendship to the natural rights of man, in which our revolution and constitution are founded, it will be a precious work. The only fund for information, which I can avail you of, is my memory as to facts which have occurred within my own time—say from the dawn of the revolution, aided by my letters, written at the time, a recurrence to which will refresh my memory. With respect to any facts within that period, which you may suppose to have passed under my observation, if you should, at any time, wish information, I will with pleasure and promptitude communicate what I know.”

On the meeting of the Legislature, in June, Mr. Plumer was chosen President of the Senate,—an office whose duties he discharged to the entire satisfaction of that body, from which he received, at the close of the session, a unanimous vote of thanks. There was little business of importance transacted during this session of the Legislature. His part in it was that of an intelligent and independent legislator, voting according to his own sense of right, now with one side and now with the other, with very little reference to party views or policy. More than once his solitary *nay* was recorded, where he thought both parties wrong; and his new friends found that his old

habit of independent action had lost none of its force by his change of party associations. "As President of the Senate," he says, June 16th, 1810, "I promptly discharge my duties, speaking and acting my mind with great freedom. I examine studiously every question which I am bound to decide, and act as my judgment dictates, without fear or partiality. My influence is increasing. The Federalists court my favor; some sincerely, others to excite distrust in the Republicans against me." He was appointed Chairman of two Committees, to meet in the recess; the one, to report a Judiciary system for the state; the other, to publish a revised edition of the laws. But he declined both these appointments, as interfering too much with his literary pursuits. "Nature," he said, "and the course of events indicate private and literary life; and to that my inclination tends. I hope I shall pursue it steadily." Though acting, in the main, with the Republicans, he was not the slave of party. A person having been nominated to an important office, for which he thought him unfit, and his aid being asked to secure his election, he declined giving it, in a letter dated July 25th, 1810, to John F. Parrot, Chairman of the Central Committee. "There is no error," he said, "more fatal than that of selecting improper men for office. Men of this character I cannot support. Of men and measures, I have from early life been in the habit of thinking and speaking

freely. This right I cannot consent to sacrifice either at the shrine of party, or on the altar of popularity." There was, in this, little of "the zeal of a new convert," or the cool calculation of the "apostate politician,"—terms applied to him, at the time, by men who could as little appreciate his motives as imitate his conduct. The candidate whom he had thus opposed, hearing of this letter, declined the nomination.

Governor Langdon being desirous, from the infirmities of age, to withdraw from public life, Mr. Plumer was mentioned, among others, as a candidate for the succession. In reply to a formal application from some of his friends in Hillsborough county, he said, "We must persuade Governor Langdon to be, once more, our candidate;" and he accordingly set himself to bring about this result.

"Having," he writes, (October 25th,) "received two messages from Governor Langdon, I paid him a visit. He said that office was burdensome to him; that he was desirous of retirement, and anxious that I should be his successor. I replied that I preferred private to public life; and that office would be unwelcome to me; and that the diversity of opinion among Republicans was such that, unless he consented to be a candidate, we should endanger the election. I left him with assuring him that he must be Governor one year."

December 6th, 1810. "Visited Governor Langdon. He is averse to being a candidate; and, at the same time, apprehensive, if he should decline, and the Republicans fail, that



he would be severely censured. He said that at his advanced age, he could neither bear these reproaches, nor the burdens of office. I advised him to submit with cheerfulness to the will of the Republicans. He replied that, if they would release him, he would give them two thousand dollars to aid my election. His situation is indeed unpleasant. He is desirous of retirement, but afraid to insist upon it. He must, however, be our candidate for the next year. I have not seen him for some time display so much resolution, judgment, and vivacity as he did this evening."

This desire of the veteran politician to decline office, and even to pay for being excused from its labors, was, perhaps, as natural at seventy, as his fondness for it had been at an earlier date. He finally consented to remain a candidate, and was re-elected in March, 1811, against his old opponent, Gilman, the Federalists having dropped Smith, as less likely to succeed. Mr. Plumer was, at the same time, re-elected to the Senate, against Oliver Peabody, supposed to be the most popular Federalist in this doubtful district. At the meeting of the Legislature, in June, he was again chosen President of the Senate.

June 15th, 1811. "A general Republican caucus unanimously nominated John Langdon as candidate for Governor next year; and appointed a committee to wait upon him, and receive his answer; which answer was that his age made it necessary for him to decline.

17th. "In the evening the caucus met again ; heard the report of the committee, and appointed a committee of ten to nominate a new candidate.

19th. "I had two questions, to-day, to decide in the Senate, in which the earnest requests of my friends were opposed to what I thought my duty. In both, I voted according to my own judgment. I cannot consent either to acquire, or hold office, by so base a tenure as the sacrifice of my opinions ; and those who expect it from me will be disappointed. It, in general, requires less information to discover our duty, than firmness to perform it. In the evening there was a meeting, say of one hundred and twenty Republicans. The committee unanimously reported me as a candidate for Governor, next year ; which report was unanimously accepted. They appointed a committee, with the Speaker as chairman, to inform me of their proceedings, and request my answer. After General Storer had made the communication, I observed to the committee, that I was sensible of the honor conferred upon me ; that my wishes centred in retirement ; that the state of my health, and my pursuits in life required it ; and that I should have been pleased if they had nominated a man better qualified for that high trust, and more ambitious of obtaining it ; but that considering the state of public affairs, and the unanimity of their choice, I did not think myself at liberty to decline. This nomination was made without my privity, and unsought by me. I have taken no measures, direct or indirect, to influence any man ; but have, on every occasion, while in office, done what I thought right and proper, regardless of the consequences to myself. When first informed of the vote of the Republicans to support me, a consideration

of the effects an election will necessarily produce on my family and my mode of living, the frequent interruptions it will occasion in my literary pursuits, the high responsibility of the office, the raised expectations of my friends, the inveterate opposition of my political enemies, and the anxiety I must feel in office, depressed my spirits, and made me regret that my name had been mentioned. But sufficient for the day is the evil thereof.

20th. "I have had a fatiguing day in the Senate, where I sat twelve hours, and did much business."

21st. "The Legislature met at five o'clock, and adjourned, *sine die*, between ten and eleven in the forenoon. In seventeen days, Sundays included, we have performed the legislative business of the state for the year."

This session was the last which he attended as a member. He had served eight years in the House, and two in the Senate; which, with his five years in Congress, made fifteen years of service in legislative assemblies.

He still continued occasionally to attend the courts of law. Under date of August 26th, 1811, he writes:

"I attended the Court of Common Pleas, in Rockingham. I was treated with much respect by the Court and Bar. The Federal lawyers were distinguished for their attentions; Mason and Webster particularly so, though they will both vote against me in March. I inquired of Mason whether, in case Evans should die, or Steel resign—both of them probable events, he would accept office under Livermore. He replied,

he could not, but discovered no aversion to the office. He said the Federalists of Massachusetts would make a great effort at the next spring elections; and, if they failed, they would forcibly resist the laws of Congress. I replied, that I did not doubt that some of them intended to do so; but I thought they would be disappointed. He said that he was resolved to have but little to do with politics; and that he was censured by his friends for his inactivity."

This opinion of Mr. Mason, that the laws would be resisted, was founded, probably, among other things, upon the proceedings of the Federalist Convention, held March 31st, 1811, in Boston, which resolved that the non-intercourse law, just then passed, "if persisted in, *must*, and *will* be resisted." "Resistance," said Dr. Parish, (April 11th, 1811,) is our only security." The bill providing for the admission of Louisiana, as a state, into the Union, had given occasion at the previous session, (January 14th, 1811,) for a strong expression of feeling in Congress on this subject, by a distinguished member from Massachusetts, Josiah Quincy, afterwards President of Harvard University. "If this bill passes," said Mr. Quincy, "it is my deliberate opinion, that it is virtually a *dissolution of this Union*; that it will free the states from their moral obligations; and, as it will then be the *right of all*, so it will be the *duty of some*, to prepare definitely for a separation,—amicably, if they can, violently, if they must. The bill, if it passes, is a death blow to the Consti-

tution. It may afterwards linger ; but lingering, its fate will, at no very distant period, be consummated." "I have known," wrote John Quincy Adams to Elbridge Gerry, at this time, (June 30th, 1811,) "now more than seven years, the project of the Boston faction against the Union. They have ever since that time, at least, been seeking a pretext and an occasion for avowing the principle. The people, however, have never been ready to go with them." "If," wrote Allen Bradford to Elbridge Gerry, (October 18th, 1811,) "our national rulers continue their anti-commercial policy, the New England States will, by and by, rise in their wonted strength and, with the indignant feelings of 1775, *sever themselves* from that part of the nation which thus wickedly abandons their rights and interests." "There is no state of parties," writes Mr. Plumer, (December 30th, 1811,) to Charles Cutts, Senator from New Hampshire, "so much to be deprecated as that designated by geographical lines. It is with deep regret that I find the terms Northern and Southern parties and interests, so often used in the debates of Congress.. Your present course is, you may rely upon it, highly grateful to certain Federal characters in New England, who have long privately favored a division of the states."

## CHAPTER X.

### THE CHIEF MAGISTRATE.

THE office of Governor of New Hampshire had, at this time, an importance attached to it in the public estimation, which it hardly possesses now. The office had been, for many years, confined, with the exception of a single term, to two men,—John Langdon, and John Taylor Gilman. Langdon, the leader of the Democracy, was, perhaps, the most perfect gentleman in the state; dignified, yet easy in his deportment, urbane and courteous, with a native grace, which won the good will and respect of all who approached him. Gilman, the representative of less popular opinions, was also a man of good personal appearance and refined manners, and wore the old-fashioned cocked hat of the revolution with an ease and dignity not unbecoming his high station. I remember him fifty years ago, when I was a student in the Academy at Exeter, bowing courteously to us boys, and regarded by us as, next to the Principal, Dr. Abbott, the greatest of men. The unpopularity of the embargo had made Judge Smith Governor in 1809; but he was turned out to pasture, according to his own

expression, a yearling; and when, in 1812, Langdon declined being a candidate, Gilman was again brought forward as the man most likely to retrieve the fallen fortunes of his party.

The contest was urged, on this occasion, with great zeal on both sides; and, on the part of the Federalists, with no little bitterness towards Mr. Plumer. Their feelings were sharpened to acrimony by his former and present relations with them, as a leader in their ranks, and now their most formidable opponent. Along with many insinuations and much reproach thrown out, as usual on such occasions, two specific personal charges were brought against him;—the first, that he had formerly been a Baptist preacher, and was now, probably, (for no proof was offered,) an unbeliever; and the second, that, from being once a zealous Federalist, he had now become as zealous a Republican;—in other words, his change of opinion in religion and in politics. The first of these charges, that of infidelity, was relied on as likely to injure him with the religious portion of both parties. Yet such is the general indisposition to connect religious belief with political conduct, that he lost very few votes by his supposed opinions on this subject. His known exertions at the bar in favor of equal justice to all sects had secured for him the zealous support of the Methodists, Baptists, and other minor sects, who felt the preponderance of the Congregational

clergy as unfavorable to their success. These last were almost all Federalists, as the former were very generally Republicans. His real crime, if crime it be to serve the state rather than a party, was that he no longer acted with his old associates. That he had been a Federalist, was readily admitted by his new friends; and his opponents were reminded that, as there was no office which they once thought too good for him, they could not wonder that the Republicans, now that he acted with them, should think equally well of him. Aside, however, of these merely personal considerations, the great question between the two parties was in relation to the measures of the general government. On counting the votes, in June, it appeared that there was no choice of Governor by the people. Of the eight or nine hundred votes thrown for other than the regular candidates, some were by Federalists, who thought that Smith had not been fairly dealt with in throwing him aside for Gilman; and some by Republicans, who remembered Plumer chiefly as a Federalist. In the convention of the two Houses, he was elected Governor, (June 4th, 1812,) by one hundred and four votes against eighty-two for Gilman. All branches of the government, including the Council and the Judiciary, were now Republican.

The Governor elect was waited upon, at his house



in Epping, by a Committee of the Legislature, and officially informed of his election.

“ After taking breakfast, he writes, June 5th, I rode with them on horseback to Concord. At Nottingham we were met by Gen. Butler and Col. Cilley, [Cilley was one of his old Federalist friends,] with about twenty gentlemen, who escorted us to Deerfield. There I was importuned to wait for a company of cavalry ; but my time was not my own, and duty forbade delay. About a dozen gentlemen escorted me from thence to Epsom, where I met Gov. Langdon. When he took leave of me, he was much affected ; tears filled his eyes, and impeded his utterance. Having dined at my sister’s, I mounted my horse, accompanied by some twenty gentlemen. Two miles from thence, I was met by about eighty more on horseback. The first six were mounted on gray horses, followed by the Marshal of the day, and the Sheriffs of Strafford and Rockingham. I came next to these, with two Captains of the United States’ army, one on each side, and after me the remainder of the escort. On passing the bridge at Concord, we were met by an additional escort. The procession proceeded to Barker’s tavern, where we arrived at four in the afternoon. I ordered refreshments for all who attended. The day was favorable to the journey ; and though I had not, for many years, rode so far in one day on horseback, I was less fatigued than I had expected.

June 6th. “ At nine o’clock in the morning, I took my seat in the Council chamber ; and soon after, a Committee from the Legislature conducted me, with the Council, to the

Representatives' hall, where the two Houses were assembled. After making a short address, I took and subscribed the affirmation of office, and, after being seated a few moments, I rose and read my speech, which occupied about twenty minutes. I was agitated ; my hand trembled ; and, before I had read through the second paragraph, I was apprehensive that I should be obliged to stop. But my confidence increased ; and I pronounced the remainder with ease and propriety."

Ease is not, however, the word to express properly the manner in which this speech was delivered. His momentary embarrassment — the not ungraceful deference of the orator to his audience—was followed by a reaction of unusual power and animation, which gave new force to his delivery, and produced a marked effect, both on the convention, and on the crowds in the lobbies and galleries. There was something in his look and manner, in his tones and gestures, as well as in the words he uttered, which lifted men, at times, from their seats, as by an electric transfusion of thought and feeling, but which the words, as we now read them, seem hardly adequate to produce. He received from both friends and opponents many compliments on the ability displayed on this occasion ; and the speech itself was regarded by the public, both in and out of the state, with much favor. It was delivered a few days only before the declaration of war with England, and it struck in happily with the prevailing tone of the public feeling

on that subject. The answers of both Houses responded fully to the sentiments of the speech ; but they were adopted by a strictly party vote. The Governor's old correspondent, Thomas W. Thompson, offered, in behalf of the Federalists of the House, to return a general complimentary answer to the speech, condemning the conduct of both France and England, and speaking vaguely and in general terms, without censure or approbation, of the policy of the administration. But the Republicans were too strong, and too decided in their opinions, to admit of any such compromise or concealment. I have not room to quote this speech entire, and am unable to give extracts that would adequately represent its views and reasonings.

The Legislature adjourned on the 19th of June, to meet again in November. The following is from Mr. Plumer's diary :

June 20th. " At eight o'clock in the morning, I mounted my horse for home, and was escorted the whole distance by a large and increasing military escort and cavalcade ; till, between two and three o'clock in the afternoon, I reached my house, where liberal refreshments were furnished to the people."

June 23d. " In the evening I received by an express a letter from Major-General Dearborn, stating that he was officially informed that the government of the United States had declared war against Great Britain, and requesting me to order

out one company of artillery, and one of infantry, of the detached militia, and place them under the command of Major Upham of the United States army, at Portsmouth, for the defence of the sea-coast."

June 24th. "I issued orders to General Storer to order out the troops in conformity with this requisition."

July 7th. "Last evening I received a requisition from General Dearborn to send one company of detached militia to defend the northern frontier of this state. To-day, I issued orders to General Montgomery to call them out from his brigade, and station them at Stewartstown and Errol."

July 21st. "I issued an order to General Storer, requiring him to send one company of the detached infantry of his brigade to Portsmouth harbor, and to detach a suitable Major to take the command of the troops at Forts Constitution and McClary; and also to General Robinson to send one company of the detached artillery from his brigade to the same place, for the defence of the sea-coast."

August 6th. "I met the Council at Concord. I requested their attention to the appointment of a Judge of the Superior Court, which was the occasion of our meeting. After a free conversation, in which I stated my opinion of the importance of the office, and the necessity of selecting a man of talents and integrity, who had a thorough knowledge of the law, I proposed Samuel Bell, as a person well qualified by his talents, his attainments, his business habits, and his decision of character, to discharge with dignity and propriety the duties of the office. His connection with the Hillsborough Bank would render the appointment at first unpopular; but I was willing to take the responsibility on myself, and had no doubt his

good conduct would soon remove those prejudices. The Councillors gave no opinion, except Chase, who declared in favor of the appointment. In the evening, Hall, Upham, and Smith, the three Republican Councillors, came to my chamber, to converse on the appointment of a judge. The result was that Hall and Smith positively refused to agree to the nomination of Bell ; and Upham said, if Franklin and Chase were in favor of Bell, he could not unite with those two Federal Councillors. As they had thus virtually negatived the man whom I considered best qualified for the office, I requested them to name a candidate. They proposed Clifton Claggett. I said, I thought him honest, but that his talents and legal attainments were not above mediocrity. I wished a man of superior qualifications ; but I would consider of it."

June 7th. "In the morning I met the Council. Hall named Claggett. Chase observed that he could not vote for him till he knew the opinion of the Executive respecting Caleb Ellis, whom he wished to propose. I said, I considered Mr. Ellis an honest man and a sound lawyer. Chase and Franklin voted for, and the other three against him. Before we rose from our seats, Mr. Franklin said, he wished to ask me a question, but had doubts of the propriety of it. I requested him to proceed. He said it was reported in the newspapers, that I had declared the present war premature and unjust, and he wanted to know whether this was true. I replied that it was not true, that I believed the war both just and necessary, and considered it my indispensable duty to support it."

The assertion that Governor Plumer had declared

the war "premature and impolitic" was first made in an Exeter paper, distinguished for the virulence of its abuse of the Governor; and though contradicted at the time in the Concord Patriot, it was repeated in the Federalist papers, in this and other states; and, seventeen years after, found its way into Bradford's History of Massachusetts. On seeing it there he wrote to the author, contradicting the statement, and received from him a promise to correct the error in his next edition. As no such edition has yet appeared, I have thought the report worth noticing here. To proceed with the journal:

"In the afternoon, the question was taken on the nomination of Claggett for Judge. Three of the council made it, and I reluctantly consented. As he is Judge of Probate, and must resign that office, to accept the other, I named John Harris as his successor. Mr. Chase said he was in favor of nominating Mr. Smith. I observed that I could not agree to appoint any Councillor to an office which would vacate his seat at the Board, and that I dissented from the former practice."

This former practice, which had of late become very common, was for one Councillor to nominate another for some office, in the well-founded expectation that the favor would be returned; and the result often was, that, at the end of the year, several of the Councillors, sometime a majority, had secured to them-

selves good offices, virtually by their own appointment, though, perhaps, no one had directly voted for himself. Governor Plumer set his face resolutely against this abuse of the appointing power; and no such appointment took place, while he was in office, though the attempt was made to force several upon him. With the selection of Claggett for Judge of the Superior Court, he was not satisfied; and afterwards reproached himself with not having more resolutely opposed it. Livermore, the Chief Justice, though a strong man, felt the need of abler associates. Evans, who was not a lawyer, had been prevented, by ill health, from sitting on the bench more than one day for the last eighteen months. On applying in person for an order for his quarter's salary, the Governor adverted delicately to the condition of the court, when Evans said that he had some thoughts of resigning, but that he was poor as well as sick, and wanted the emoluments of the office for his support. "To remove a sick man," says the Governor, in his journal, "oppressed with poverty, is a hardship to him; to continue him in office is a greater hardship to the state. The Legislature must decide." They had decided, in June, not to request his removal; and without such request, the Governor could not act in the case.

On the 18th of November, he again met the Legislature. His speech, on this occasion, was occupied,

as the previous one had been, mainly with the war, and circumstances growing out of it. Both Houses returned answers to the speech, approving of the war, and of "the prompt and patriotic manner in which the call of the President respecting the militia was complied with." The Federalists, in both branches, voted against the answers, and, in the House, entered their protest on the journals. This protest pronounced the war unjust and inexpedient; but its chief argument was directed against the power claimed by the President of calling out the militia, and placing them under officers of the United States. The Federalist Governors, Strong of Massachusetts, and Griswold of Connecticut, had refused to comply with the requisitions of General Dearborn, on the ground that, having a right to judge for themselves whether the call was necessary, they saw no occasion for its exercise at the present time. It was further held in Massachusetts and Vermont, that, though the President, when himself in the field, might command in person the militia of a state called into service, he could not put them under the command of any other than their own state officers. Governor Gore of Massachusetts, said in the Senate of the United States, December, 1814, "The President is commander in chief of the militia when in the actual service of the United States; but there is not a tittle of authority for any other officer of the United States to assume



the command of the militia." It was only in the Federalist states of New England that these doctrines were maintained. In the other states the power of the President over the militia was not contested. It is a curious fact, overlooked at the time by both parties in this controversy, that the Legislature of New Hampshire, (in June, 1794,) by a resolution, still in force, had authorised the Governor to call out the militia whenever required by the President.

The choice of a Senator of the United States occurring at this time, many attempts were made, but without success, to elect one. The Republicans had a majority of only one in the Senate; and Sanborn of Epsom, one of that majority, would vote for no man whom the others were willing to elect. Among those proposed, was the Governor, but Sanborn refused to vote for him, on the ground, avowed in the Senate, that the Republicans had no other man whom they could run as Governor with any chance of success, and that to elect him was to ensure their own defeat in March. The Governor being consulted on the subject, said that he preferred his present office to that of Senator, and private life to either; and hoped, therefore, that no votes would be thrown for him. It was generally supposed that Sanborn's vote might have been obtained, if he had desired it. But he felt that a hard battle was to be fought by the Republicans in the March elections, and that his

proper place was here in the front of that battle. Defeat was probable ; but this was no reason why he should shun the contest.

On most of the subjects recommended by him to the attention of the Legislature, they had acted in accordance with his wishes. He had, however, during this year, returned one law and two resolves, with his objections to them. It is a singular proof both of his personal influence and of the facility with which improper measures are often adopted, that each of the acts on which he thus imposed his veto, was, on being returned, unanimously rejected ; not a single vote being given for laws which a majority of both Houses had just before passed. In one of these cases, private rights were injuriously affected, and important public interests sacrificed, by the proposed enactment. So important is often the final supervision of a vigilant Executive, in the judicious use of an independent veto. Here were bills which had been read three times, at different hours, in each House, and passed by both, which yet, on revision, every one saw ought not to become laws. Among the measures of the year, which were of permanent importance, were the building of the State's Prison, or Penitentiary, and the consequent revision of the Criminal Code. There were, at this time, eight offences punishable with death ; they were now reduced to two, treason and murder ; the former an offence, of which no one has

ever been convicted in New Hampshire. Instead of the old punishments of the whip and the pillory, formerly used for minor offences, imprisonment in the State's Prison, or in the County Jail, was now substituted.

A few extracts from letters and journals of the year will give a sufficient expression of the feelings and opinions of the period.

To Samuel D. Mitchell, a Senator from New York, (January 1st, 1812:)

“Shall we have war with Great Britain? If we persist in our preparations, will she repeal her Orders in Council, permit us the exercise of our rights on the ocean, and cease from impressing our seamen? If she does not, are we to proceed from words to deeds—from acts of Congress to feats of arms; or are we, by tamely submitting to new injuries, to provoke fresh insults? The nation has grown tired of the exercise of its restrictive energies in the shape of embargoes and non-intercourse, and calls loudly for more active and efficient measures.”

To John A. Harper, a Representative from New Hampshire, (May 18, 1812:)

“There are numbers of Federalists who wish a separation of the states; but I believe none of them have hardihood enough to come out now, and take publicly on themselves the responsibility of the measure. It is a settled plan with them, whenever a dismemberment of the Union is to be attempted,

that it be declared by some State Legislature ; and this year even Massachusetts has a Republican Senate."

The Federalists, despairing of electing to the Presidency any candidate of their own, had concluded, at this time, to support De Witt Clinton, of New York, who was nominated by a portion of the Republicans against Mr. Madison.

Sept. 11th. "Read the address of the New York Committee in favor of Clinton. In a state of war, it is an improper time to talk about Virginia influence, or, indeed, the influence of any other state. Our united energies should be directed against the common enemy of our country. I shall vote for Madisonian electors."

Oct. 20th. "The Essex junto are not so much anxious to secure Clinton's election as to prevent Mr. Madison's having a single electoral vote in New England, that they may promote their favorite object, the dismemberment of the Union."

Madison was, in fact, re-elected under a strong sectional influence, having received all the Southern and Western votes, and none north of Pennsylvania, except six given him by the Legislature of Vermont, at a time when the people, if allowed to vote, would have given them to Clinton.

The subject of the right of the State Legislatures to bind, by mandatory instructions, their Senators in Congress, excited at this time much attention.

William B. Giles, of Virginia, who denied this right, had sent a copy of his speech on this subject to Governor Plumer, who (Dec. 28th,) said, in reply :

“ I most cordially approve of your opinion ; and thank you for the manly and able stand you have made in supporting the rights and independence of the Senate. Encroachments on the rights of public functionaries are as fatal to freedom, as if made on the people themselves. Both must be steadily resisted, or a free government cannot be supported. The public interests suffer more from an inordinate love of office, and a servile dependence on popular opinion, than they can do from any undue exercise of independent self-will in public men. Such independence is all too rare in our country.”

“ It gives me great pleasure,” said Giles, in reply, (March 3d, 1813,) “ to learn that you concur in opinion with me ; because the confidence I feel in your judgment can but serve to confirm me in that opinion. I have read, with great attention and interest, your able and patriotic speech to the Legislature of New Hampshire. If such sentiments actuated every bosom in the United States, there could not exist a doubt of a speedy and honorable termination of the war.”

The Governor had received similar commendations of his speech from other quarters—among the rest, one from John Adams. “ I thank you,” said the Ex-President, “ for your eloquent and masterly speech, which I read with much satisfaction.” He received soon after, (Jan. 10th, 1813,) another letter from Mr. Adams, in which he says :

"I know not when, or where, I have ever received a more luminous letter than yours of the second of this month. It is a misfortune to an old man to receive a good letter; because it springs a mine in his memory, and disposes him to write a volume, which his life could not be long enough to finish. Hence the proverbial garrulity of age. You have consolidated the causes of change in the Northern States; or, at least, your observations coincide with mine. Our two great parties have crossed over the valley, and taken possession of each other's mountain. The coalition of North and Fox, in 1783, was modest in comparison with that between Clinton and the Federalists. To Jay, King, Ross and Pinckney, the pill was too bitter. A gentleman of greater talents and higher rank than Rufus King, asked him, at New York, 'Do you intend to vote for De Witt?' Rufus replied, 'No; could you vote for Ben Austin?' I can say little of Mr. Clinton; for I know nothing but by hearsay, having never seen him. But one thing I know. The state of New York has become a great state, and De Witt Clinton a great man, good, bad, or indifferent. The generous horse, New England, will be ridden as hard by New York as it ever has been by Virginia. .

"The clergy of this country are growing more and more like the clergy of all other countries. Osgood, Parish, Gardiner, are but miniatures of Lowth, Sacheverel, Laud, and Lorain; and in that rank I leave them."

The division here indicated among leaders of the Federal party was not confined to the question of supporting Clinton for the Presidency. Many emi-

nent Federalists, though originally opposed to the war, held that, once declared, it should be vigorously prosecuted; and they would do nothing unnecessarily to embarrass the government in its prosecution. But the majority of the party, looking mainly to party objects, saw only in the difficulties and embarrassments of the times the means of effecting their own advancement to power. Such of them as deemed disunion desirable, were, of course, anxious to increase these embarrassments, as sure to accelerate the crisis. Among the Federalists of New England, who protested loudly against this policy of their former associates, one of the most distinguished was Samuel Dexter, of Boston, formerly a Senator in Congress, and afterwards Secretary of War under John Adams, who as a lawyer now stood at the head of his profession in the Union. In a speech at a town meeting in Faneuil Hall (Aug. 6th, 1812,) he denounced the measures of the party with great force and earnestness, as leading inevitably to a separation of the states. So deep, indeed, had his convictions on this subject become before the end of the war, that, though having little sympathy with the Republicans, he suffered himself to be run against Strong, as their candidate for Governor. He was, he said, utterly unable to reconcile some of the leading measures of the Federalists with the indispensable duty of every citizen in every country, and especially in the American Republic, to

hold sacred the union of his country. "Why," said he, "make publications and speeches to prove that we are absolved from allegiance to the national government, and hint that an attempt to divide the empire might be justified?" Dexter, the greatest lawyer, and Gray, the greatest merchant of the United States, both previously Federalists, were now the Republican candidates in Massachusetts, as Plumer was in New Hampshire; men whose opinions had undergone little change as to past measures, but who felt it their duty to support the administration of their country against a foreign power, in opposition to the mistaken policy of their former friends. Distinguished Federalists out of New England regarded the subject much in the same light. William Pinckney, Rufus King, James A. Bayard, and Robert G. Harper were of this number. The latter said, speaking of the war, (Oct. 31st, 1812,) "The Eastern States will soon relieve themselves from a burden which they will consider as no longer tolerable, by erecting a separate government for themselves. Thus the dissolution of the Union, and all the direful evils attendant upon it, must, as we believe, be the last and necessary consequence of continuing the present war." It was impossible, indeed, not to see that there was, at this time, a great body of men of talents, wealth, and political influence, who were systematically employed in prejudicing the people of

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New England against the Southern and Western States, sowing discord and distrust between them, and thus weakening the Union. Many who labored to this end were ignorant of the purpose they were subserving; there were others who acted under no such mistake as to the tendency of their measures.

It was a great, and, as the result proved, a fatal error of the Federal party, in the latter stages of its existence, that it allowed its feelings of opposition to the Republicans to determine the course of its foreign policy to an extent which, in the popular estimation at least, identified it, in the end, with the enemies of the country. In the successes of England they saw not so much the defeat of an American by a British force, as the overthrow of their political opponents, and their own consequent advancement to power. They considered England as excused, if not justified, in her measures, by the necessities of her position, and by the previous acts of France, to which hers were, as they said, little more than a just retaliation. Under the influence of such feelings many worthy citizens were seen to rejoice over British victories, and to mourn over those of their own country. Passion, prejudice, personal interests, and the disappointments consequent on reiterated party defeats, had so embittered their feelings, that the foreign foe seemed less obnoxious to them than the domestic rival and opponent. The rancor thus engendered on

the one side, was met, on the other, with equal warmth of feeling by the friends of the administration. The seceders from the Federal party, in particular, felt that their first allegiance was, not to party, but to their country; and that, as the Republicans were upholding, in this war, the essential rights of the United States against foreign aggression, they were entitled to their earnest support, as against the foreign foe. Mr. Plumer was not of a temperament to be cold or indifferent in such contests; and he came ultimately to regard the success of his old associates of the Federal party, acting as they now were under the triple influence of devotion to England, hatred of France, and hostility to their own government, as utterly unworthy of the public confidence, and their success as fatal to the best interests of the country. The more violent of them differed, indeed, in his opinion, little in feeling or conduct, from those furious Jacobins who, taking part with a foreign power against their own government, had, under Washington and Adams, justified the worst aggressions of France on the United States. He condemned such conduct then, and he saw no reason to approve it now.

The spring elections of 1813 were conducted with great zeal and vigor on both sides, but with less personal abuse of the Governor than in the preceding year. His dignified and impartial conduct in office

had inspired even his opponents with a respect for him, which was apparent on this occasion. "No part," he says, (March 9th, 1813,) "of my official conduct has been condemned, but that of ordering out the detached militia. The great accusation is, that I support the war, and vindicate the national government." The result of the canvass was the election of Gov. Gilman, by a majority of about two hundred and fifty votes, out of more than thirty-five thousand thrown. So well was each party satisfied with its own leader, that there were few or no scattering votes. "The recent elections in New Hampshire," said Mr. Plumer, in a letter to President Madison, (March 27th,) "have terminated, by small majorities, in favor of the Federalists. Had our Republican citizens, who are absent in the army, been at the polls, we should have succeeded. I trust that our failure will not, in the least, influence the administration to relax in their measures to prosecute the war, or induce them to conclude a peace on unfavorable terms." Under date of May 12th, he writes: "Met the Council at Concord. I have not to-day had a moment's leisure—company the whole day and late at night—office-seekers and their friends have been importunate, and some of them tedious. This bargaining for office I heard with silent indignation."

He could not, however, always conceal his contempt for such baseness; and his plain-spoken indignation

made him enemies, who showed themselves afterwards in his contest with the Advocate party in 1816-17. Of one such individual he says: "His application gave me pain. He has been very attentive and obliging to me; and I am disposed to reward him liberally; but not by conferring on him public office: that I cannot barter for personal or private favors. It is a degradation of which I am not capable." One of his last official acts was the stationing of a watch or guard of thirty men, (May 20th) at Little Harbor, for the defence of Portsmouth. He writes, (June 2d:)

"In the morning I administered the necessary oaths to the members of the two Houses. The majorities in both are Federal. In the afternoon I sent a message to the Legislature, stating certain measures which I had adopted since the last session. This was my last official act. I leave office without disgust, or regret. I am conscious that I have discharged its duties faithfully and impartially, without doing, or omitting, a single official act with reference to a re-election, or from any improper motive. Had my information and experience been the same, when my office commenced as when it terminated, my conduct, in a few things, would have been different. I should have made a more strenuous effort to have Bell appointed Judge of the Superior Court; and should not have consented to the appointment of Claggett."

June 4th. "I left Concord at five in the morning, having declined an escort, and reached home at two in the afternoon."

This brought him to the close of his first term, as Governor of New Hampshire. The war with England had added greatly to his labors and responsibilities; but the punctuality, industry, and method to which, in his own affairs, he was accustomed, carried him cheerfully and safely through. Easy of access, and prompt in action, he was always at his post; neglecting no duty, and throwing into each the whole force of his active and energetic mind. His public papers were prepared with great care, both as to the matter and the manner; and they did him much credit with the public. Among these, his proclamations for Fast and Thanksgiving were characteristic productions; scarcely less so than his speeches. They excited much attention, both in and out of the state. In Massachusetts they were, in some cases, read from the pulpit, by Republican preachers, in the place of those of Governor Strong. Strong, in one of his, had condemned the war; spoken of England as "the bulwark of the religion we profess;" and prayed that "God would hide us in his pavillion, until these dangers be past." Plumer, on the contrary, exhorted the people to pray to God "that he would inspire them with patriotism and love of country; *teach their hands to war, and their fingers to fight*; turn the counsels of *their enemies into foolishness*; and so unite the hearts of all our people, *as even to make our enemies to be at peace with us.*" These proclamations, political rather

than religious, express truly the sentiments, not of their authors merely, but of the two great parties to which they respectively belonged.

June 25th. "This is my birth-day ; the last, I was Governor of the state ; to-day, Governor Gilman was escorted through the town, within half a mile of my house. How uncertain is public life ! How unstable public opinion ! Yet the reflection costs me no pain ; nor the change any uneasiness. I never wanted the office ; but yielded to it as a duty."

June 30th. "Perez Morton, the Attorney-General of Massachusetts, told me that Mr. Thorndike, an influential Federalist of Boston, was, a few days since, in company with a select number of that party, who declared themselves in favor of separating the New England States from the Union. He asked them if that was their real object. They answered, 'Yes.' He then said, 'If so, I am decidedly opposed to you. I am willing to pass resolutions, to talk loud, and thus intimidate the government, so as to bring them, if possible, to make peace with England ; but I could not consent to a separation, if they would freely grant it. As a merchant, I know that it would render New England poor.' 'This,' said Mr. Morton, 'is the opinion of many other Federalists of Boston.'"

The accession of the Federal party to power in New Hampshire was signalized by a new organization of the courts of law. The Judiciary Act of June 24th, 1813, abolished the Superior and Inferior Courts ; turned out all the old judges ; and established a Supreme Court, and a Circuit Court of Common Pleas

in place of the old courts. Of this new Supreme Court, Jeremiah Smith was appointed Chief Justice, and Arthur Livermore and Caleb Ellis, Associate Justices. By the Constitution of the state, judges hold their offices during good behavior, till they reach the age of seventy years, subject to removal, on impeachment for crimes and misdemeanors, and by the Governor and Council on address of the Legislature. As the judges, in this case, were removed in neither of these modes, the act was, in this respect, clearly unconstitutional. Such it was held to be by the Republicans generally, and by many Federalists, including some of the first lawyers in the state. It was in striking contrast with the Federalist doctrine, as held throughout the Union, in the case of the Circuit Judges of the United States, of whom Smith had been one, nor was it less inconsistent with their favorite doctrine of the independence of the judiciary. Livermore, who held the first court under the new law, at Dover, in September, pronounced it unconstitutional, so far as it removed the old judges from office; and denounced, with great severity, the legislature by which it was passed. Smith, though he avowed his opinion less openly, was equally decided in his disapprobation of the law by which twenty-one judges were at once removed from office, in a way unknown to the Constitution, and contrary to its express provisions. "A very bold

step," he said, (July 26th,) writing to Judge Farrar, "has been taken, in which I had no agency. It is a step, too, which I should not have advised." To Mason, he wrote the same day, "The General Court are most piteously frightened. I sincerely believe that, if they could get back the act, they would see the devil have it, before they would pass another such." He and Livermore, however, both accepted their appointments, and held the courts; not without interruption and protest from the old judges. In the counties of Strafford, Rockingham, and Hillsborough, the old judges attempted to hold courts at the same time with the new ones. In the two latter counties, the sheriffs, Butler and Pierce, who were Republicans, took part with the old court. Governor Gilman, on this, called together the Legislature; and the refractory sheriffs were removed, in November, from their offices. Evans and Claggett held no more courts; and the new judges met with no further obstructions. They were able men, and good judges; their administration gave strength to their party, and the courts were improved by the change. The subject, however, of the new judiciary continued to occupy the public attention, and, next to the war, was the main issue between the two parties. This was one of the many cases in which Governor Plumer adhered to his old opinions, while his Federal friends were changing theirs. In 1813, as in 1802, he con-



tended that judges, who held their offices by the tenure of good behavior, could not constitutionally be removed by the repeal of the law under which they were appointed.

The pressure of the war, now becoming daily more severe, gave the Federalists a small majority in the March elections of 1814. Governor Gilman was re-elected by a constitutional majority of but little more than one hundred votes, out of nearly forty thousand thrown. The House and Senate were also Federal; but in the Council there were three Republicans to one Federalist.

"The Federalists," wrote Mr. Plumer, "made my calling out the militia in 1812, the rallying point against me; and said that, if re-elected, I should pursue the same course again. That I lost votes enough from this cause to have elected me, is probably true; but to sacrifice duty to personal aggrandizement, is what I have not done, and never will do. I had no personal wish to gratify in being re-elected. I enjoy more ease and satisfaction in private, than I ever did in public life."

May 25th, 1814. "Governor Gilman has called out eight companies for the defence of Portsmouth. This excites much murmuring among his partizans, who say that he has not only followed my example, but gone greatly beyond me in the number of troops ordered out. They should consider that more are necessary now than in 1812."

Governor Plumer had been early in the habit of writing for the newspapers; and the excited state of

the public mind, for the last four or five years, had given more than usual activity to his pen. Among the essays which he published, was a series of numbers, in the winter of 1813-14, entitled "An Address to the Clergy of New England, on their Opposition to the Rulers of the United States, by a Layman." The Congregational clergy of New England had, from the first settlement of the country, taken an active part in politics. During the Revolution, they were zealous Whigs; under Washington and Adams they were Federalists, which they continued very generally to be under Jefferson and Madison. In New England their influence, as politicians, was much relied upon by the leaders of the Federal party. Many of them, besides their daily conversation among their parishioners, made it a matter of conscience to preach political discourses on Fast and Thanksgiving days, and often on other occasions. Many of their Republican hearers felt this as a grievance, the more offensive to their feelings, as there seemed no remedy for the evil, but by withdrawing from their societies, and joining the Baptists, Methodists, and other sectaries, who were principally Republicans. Some of them did this, and more threatened to do so. "I was unwilling," says the author, "to undertake this task; but the conduct of the clergy, and the state of the nation impelled me. My object is to serve my country, which, I think, they are injuring." In the preface, noticing some

attacks which had been made upon him, he says: "I have only attempted, and that in the spirit of friendship, to reclaim the clergy from intermeddling with degrading contentions, about which they are too ignorant to decide, and with which they have no concern. A clergyman preaching party politics merits less attention than the meanest of his hearers. If he will wallow in the mire of factious opposition, he cannot expect his cassock and band to protect him from the filth and slander which he delights in handling." He adds, in a quotation from Burke, "Surely the church is a place where one day's truce ought to be allowed to the disputes and animosities of mankind." Instead of justifying England, and condemning their own country, if they must preach politics, he commends to them the fervent patriotism of the Psalmist: "If I forget thee, O, Jerusalem, let my right hand forget its cunning. If I do not remember thee, let my tongue cleave to the roof of my mouth, if I prefer not Jerusalem above my chief joy." Feeling sensibly the injustice, as well as the indecorum of the more outrageous of the attacks on the government, he pushed too far, perhaps, the scripture doctrine of submission to rulers, and the consequent interdict on the clergy against preaching political discourses. Political questions are often moral questions, and as such fall clearly within the domain of the pulpit. To discuss these temperately,

in the spirit of Christian candor, is not, therefore, to step beyond the line of clerical duty. But it was not with calm reasoning, or moral suasion, that he had in this case to deal, but with rude denunciation, and even with false statements. As against Osgood and Parish, the most prominent of these preachers, he had only to quote their former discourses, during the quasi-war with France, to prove that they were as inconsistent with themselves, as violent in their denunciations of others. It was in reference to these that he quoted the text of Malachi: "Ye have departed out of the way, ye have caused many to stumble; therefore, have I made you contemptible and base before all the people." The whole address was a *concio ad clerum* on the text, "Thou shalt not speak evil of the ruler of thy people." Besides the newspaper circulation of the address, three thousand copies of it were circulated in a pamphlet form, and attracted much attention. An answer was attempted to it, by Dr. McFarland, of Concord; but it was in its general strain an attack on the administration, rather than a defence of the clergy.

The correspondence of Governor Plumer, at this period, far from any abatement of zeal in the public cause, shows an increased confidence in the ultimate success of the war; notwithstanding the change of affairs in Europe, which enabled England, on the downfall of Napoleon, to throw, most unexpectedly

to her enemy, the victorious armies of Wellington on the shores of America, to meet, as unexpectedly to herself, at the two extremes of the Union, the repulse by McDonough at Plattsburgh, and the defeat by Jackson at New Orleans. To Elbridge Gerry, the Vice-President, he wrote :

March 5th, 1814. "I should prefer a continuance of the war till we can obtain the Canadas. Our possession of those provinces is the only real security which our northern and western frontiers can have against the Indians, and the best guaranty that England will keep peace with us, on fair terms, in future, as it will render her West India dominions dependent on us for subsistence. The war, even in New England, is daily becoming more popular. If we fail in our elections, next Tuesday, in this state, it will be mainly owing to the belief that a Republican governor would order portions of the militia into the service. This is enough to turn against us many timid men, who yet call themselves Republicans."

"We are told," he writes to Mr. Gerry, (May 2d,) "that there are but few of our seamen impressed ; yet, one fact is incontrovertible : during the whole war, we have not captured a single British public ship, but we have found native American seamen on board, who had been impressed, and forcibly detained, and, in some cases, made to fight against their countrymen. The number, then, is great ; but suppose it small, a single seaman, unjustly detained, is such a wrong as would justify a resort to arms. Yield one, and you may as well a thousand ; and there is no end to insult and injuries, if you tamely submit to them. Allegiance and protection are

correlative terms ; you claim the one of your citizens, you are bound to give them the other.

“Though the Republicans have succeeded neither in New Hampshire nor in Massachusetts, they have received accessions of strength in both of these states ; and in New York, they have obtained a triumph. I ardently desire an honorable peace ; but I hope and trust the government will not be so much in haste to obtain peace, as to sacrifice any great advantage or any essential right of the country. No nation can long survive the loss of honor, or the sacrifice of its rights.”

To John Adams he writes, (November 25th.)

“You ask my opinion whether New Hampshire is prepared to adopt the measures of the Massachusetts Legislature. I think not. Though dismemberment has its advocates here, they cannot obtain a majority of the people or their representatives to adopt or avow it. How far their covert proceedings, aided by the imposition of taxes, and the adoption of other measures necessary to carry on the war, may eventually influence our people to aid them in their projects, time alone can disclose. Before Governor Strong’s letter reached Governor Gilman, inviting New Hampshire to send delegates to Hartford, our Legislature was adjourned to June. The Governor cannot convene them without the advice of the Council ; and, fortunately, a majority of the Councillors are staunch Republicans. This has prevented his even asking their opinion on the subject.”

It appears, however, that the Governor, at a later period, did consult the Council on the subject ; that

the two Federal Councillors advised him (Jan. 25th, 1813,) to call the Legislature together; and that the three Republicans refused to sign this advice. This would have been too late to send delegates to the convention, but not too late to act on the measures which they recommended.

To Jeremiah Mason he writes, (Dec. 29, 1814.)

“ You ask what will be the result of the Hartford Convention. I expect no good, but much evil from it. It will embarrass us, aid the enemy, and protract the war. Their prime object is to effect a revolution,—a dismemberment of the Union. Some of its members, for more than ten years, have considered such a measure necessary. Of this I have conclusive evidence. I think, however, they have too much cunning, mixed with fear, to proceed further, at their first meeting, than to addresses, remonstrances, and resolves. But the spirit they have excited in the minds of the more violent of their party will not, I fear, be satisfied with mere words, but will, should the war continue, lead to more violent measures.”

The Massachusetts House of Representatives had, at the preceding session, declared that “ the time has arrived at which it is incumbent on the people of this state to decide whether these burdens [the war and embargo, the latter of which they pronounced unconstitutional,] are not *too grievous to be borne*, and to prepare themselves for the great duty of protect-

ing, *by their own vigor*, their unalienable rights." They now (Oct., 1814,) declared that the Constitution, as at present administered, had "failed to secure to the Commonwealth of Massachusetts, and to the Eastern section of the Union, those equal rights and benefits, which were the great objects of its formation." "It is vain to talk about the Union," said Mr. Saltonstall, in the Massachusetts Senate, on the appointment of delegates to the Hartford Convention, (Oct., 1814,) "if our rulers pursue a course much longer which is teaching us all to look to the general government as the cause of our ruin. Unless an effort is made, the states will soon as naturally fall asunder as ripe fruit is now falling from our trees."

The Convention which met at Hartford, Dec. 15th, 1814, consisted of delegates appointed by the Legislatures of Massachusetts, Connecticut, and Rhode Island, and of members appointed by two County Conventions in New Hampshire and one in Vermont. Its proceedings were conducted with closed doors; and among its rules was one "that the most inviolate secrecy shall be observed by every member of this Convention, including the Secretary, as to all the propositions, debates and proceedings thereof." This injunction was removed at the close of the session, so far only "as relates to the report finally adopted." This report, which was made to the State Legislatures



by which the members were appointed, was approved and published by them. In it the question of dissolving the Union was discussed at some length. "To prescribe patience and firmness to those who are already exhausted by distress, is sometimes," they say, "to drive them to despair; and the progress towards reform by *the regular road* is irksome to those whose imaginations discern, and their feelings prompt to a *shorter course*." This shorter course is direct and open violence. "A sentiment prevails to no inconsiderable extent, that the time for a change is at hand. Those who so believe, regard the evils which surround them as *intrinsic and incurable* defects in the Constitution. They yield to the persuasion that *no change*, at *any time*, or on *any occasion*, can aggravate the misery of their country. This opinion may *ultimately* prove to be correct." "But as the evidence on which it rests is," they say, "not yet conclusive," they recommend, for the present, the adoption of a more moderate course, which, if it does not avert the evil, will, "at least, secure consolation and success in the last resort." "If," they add, "the Union be destined to dissolution, it should, *if possible*, be the work of peaceable times, and deliberate consent. Events may prove that the causes of our calamities are deep and permanent. Whenever it shall appear that these causes are radical and permanent, a separation, by

equitable arrangement, will be preferable to an alliance by constraint, among nominal friends, but real enemies." They refer to Washington's farewell address, and conclude from all these premises—not against dissolving the Union under any circumstances—but against "precipitate measures," since "a severance of the Union, by one or more states, against the will of the rest, and especially in time of war, can be justified only by absolute necessity," which necessity, they argue, does not now exist. In the mean time, after pronouncing certain measures then before Congress to be unconstitutional, the report adds: "In cases of deliberate, dangerous, and palpable infractions of the Constitution, affecting the sovereignty of a state and the liberties of the people, it is not only the right, but the duty of such a state to interpose its authority for their protection, in the manner best calculated to secure that end. When emergencies occur, which are either beyond the reach of the judicial tribunals, or too pressing to admit of the delay incident to their forms, states, which have no common umpire, must be their own judges, and execute their own decision." This is, in its strongest form, the Virginia and South Carolina doctrine of nullification. "If," they say, "a different policy from the present should prevail, our nation may yet be great, our union durable. But should this prospect

be utterly hopeless, the time will not have been lost, which shall have *ripened a general sentiment* of the necessity of *more mighty efforts* to rescue from ruin at least *some portion* of our beloved country." They then recommend, as their more moderate course, an application to Congress by the New England States, to enable them to assume their own defence, and for that purpose, that they may receive into their own treasuries a portion of the United States' revenue collected within their limits. They also propose seven amendments to the Constitution of the United States; the first, abolishing the slave representation; the second, providing that no new state shall be admitted into the Union without the concurrence of two-thirds of both Houses of Congress; the third, that no embargo shall be laid for more than sixty days; the fourth, that no non-intercourse law be passed but by a two-thirds' vote; the fifth, no war declared but by the same vote; the sixth, no naturalized citizen to hold any civil office; and the seventh, that no President be elected a second time, and no state furnish two Presidents in succession. Such were, in substance, the proceedings of the Hartford Convention, which closed its session by providing for a new Convention to meet in Boston, in June, in case the war should continue, or for the old one to meet sooner, if the committee appointed for that purpose should see fit to convene it.

The Treaty of Ghent not only brought peace with England, but put an end to nearly all the recent causes of party differences in this country. Impressment, claimed as a belligerent right, ceased with the European wars; French decrees and British orders in Council had the same termination; and the non-intercourse, embargo, and war in America, which had grown out of these, expired with their causes. There were, therefore, no longer the old grounds of quarrel between the two parties; and that which underlay them all, the charge of foreign influence, ceased thenceforth to have any foundation on either side. The Federalists had charged the Republicans with being under French influence; and the Republicans retorted the charge, by imputing their conduct to British influence. Both these charges were, to a certain extent, true. Not that French or British gold was employed to make partizans here, for either of those nations, though something may perhaps have been paid for the support of party newspapers; but the popular feeling itself had fallen into a semi-Colonial dependence on Europe. Sympathy with England and abhorrence of France were motives powerful with the one party; and attachment to France, admiration of Napoleon, and hatred to England, were hardly less powerful in the other. "Every Frenchman," said Gouverneur Morris, "bears with him everywhere a French heart. I honor him for it. O!

that Americans had always an American heart!" "All will end without any shedding of blood," said Washington, "if, instead of being Frenchmen or Englishmen in politics, our citizens would be Americans." It was not till after the war of 1812, that a truly American feeling, superior to all foreign attachments, obtained the entire ascendancy in our national councils.

The Federal party, as a national organization, may be considered as having expired with the war. Patriotic in its original purposes, and wise in its early measures, it was never a popular party; and when, after its final loss of power, in 1801, it fell insensibly into the ordinary vices of an opposition, it lost, by degrees, its nationality of character, became sectional in its objects, and, ultimately, during the war, to a considerable extent, anti-national in its admiration of England, its dread of France, and its abhorrence of the war and its authors. Fisher Ames had at an earlier period expressed, in one brief but pregnant sentence, the opinions in which many of them indulged. "Our country is too big for union, too sordid for patriotism, and too democratic for liberty." Southern Federalists ceased to feel their former unity of purpose with those of the north; local jealousies were engendered, local objects pursued; and the final explosion of these angry feelings, in the impotence of the Hartford Convention, brought such

general odium on the expiring efforts of Northern Federalism, that men, who had once borne it with pride, grew, at last, ashamed of a name which, in its earlier use, was illustrated by the wisdom and the virtue of Washington and Adams, of Hamilton, Jay, and a host of other revolutionary worthies. What was good in the principles of the party had been, to a great extent, adopted by the Republicans; and the evil of its original views had been sufficiently exposed.

But if the Federal party expired with the war, the Republican had, at the same time, well nigh lost its original identity. It had gradually eliminated some of its worst errors, both of theory and practice, and as gradually absorbed into itself much of what was best in the policy of its opponents.

"The era of good feeling," which commenced with Mr. Monroe's administration, led to a speedy oblivion of old feuds; and, for the eight years which followed, it was not easy, by anything which any man said or did, to determine to which of the old parties he belonged, or whether, indeed, there was, at that time, any party in the country. When, at a later period, parties once more emerged from the quiet of Monroe, into the turbulence which ensued under Adams and Jackson, many of the old Federal leaders were found to be Democrats, and as many old Republicans took rank as Whigs. The division turned mainly on new

issues, and on interests little felt in the earlier days of the Republic. The funding system, the army, and the navy, had lost their interest in the questions of the tariff and internal improvement, and in the first stirrings of that yet deeper and more important question of the extension or the restriction of slavery.

Mr. Plumer early saw the change of parties which this change in the affairs of the country was about to produce, and felt it his duty to accelerate, as far as in him lay, the oblivion of past controversies, and to aid in the introduction of a policy more liberal and more comprehensive, in relation both to men and to measures. While party feelings had degenerated with many into personal animosities, he had kept up his social relations with his old Federalist friends, both by correspondence and by personal intercourse. He knew the good men of both parties, and the good points in both their creeds; and his aim was to bring them together in combined action for the public good. The old party feelings were, however, still strong on both sides; the Federalists exasperated by defeat, the Republicans warm with the excitement of recent strife. The heat of the contest had, indeed, as yet, very little abated. The antagonist muscles required time to soften and relax from the extreme tension of earnest and long-continued action. This relaxation did not come in season for the March elections in

New Hampshire ; and Governor Gilman was accordingly re-elected. So doubtful, however, was the contest, that, counting all the votes thrown, his majority was found to be only thirty-five. It was his last year. During the whole period from 1812 to 1817, neither party was strong enough to feel confident of victory, and neither so weak as to despair of success.



## CHAPTER XI.

### THE CHIEF MAGISTRATE.—(CONTINUED.)

I FIND little among Mr Plumer's papers in the year following the peace, which need be here introduced. Two extracts from his journal may be given, as touching upon subjects either already noticed here, or which will come up at a later period.

September 16th, 1815. "On the 7th instant, I set out with my wife on a visit to our friends in Massachusetts, and to-day returned home. My visit to Newburyport, where I was born, and to Newbury Old Town, the original seat of the Plumer family, was productive, in my mind, of many interesting remembrances and reflections. In this ten days' excursion, I have been everywhere treated with great respect and attention; but the journey, and my long and frequent conversations, fatigued me. At Salem, I spent an afternoon with Joseph Story, one of the Judges of the Supreme Court of the United States. He said, the judges of that court had informally considered the question whether the Governor of a state was bound, on the requisition of the President, to order the militia into the service of the United States. He could, he said, discover no diversity of sentiment among them; he believed they were unanimously of opinion that the Governors were bound to obey the requisition; and regretted that

neither the President nor Congress had required their opinion on the subject. He complimented me on my speech to the Legislature in November, 1812, upon the question of ordering out the militia; and said that my reasoning appeared to him conclusive. He mentioned, of his own accord, that he had considered the law of New Hampshire, of 1813, establishing the new judiciary, and was of opinion that it was unconstitutional."

September 30th, 1815. "I spent an hour in social, free conversation with Governor Gilman. He condemned, with great frankness, the removal of John Wheelock from the Presidency of Dartmouth College. He said it was injudicious and improper."

This removal of Wheelock brought the affairs of the college before the Legislature, and led to a vigorous, but finally unsuccessful attempt to remodel and improve that important institution.

The spring elections of 1816 resulted in the entire success of the Republican party in New Hampshire. Governor Gilman, from the increasing infirmities of age, and, probably, from a conviction that he could not again be elected, declined being a candidate. His place was supplied by James Sheafe,—a respectable merchant of Portsmouth, probably, at that time, the richest man in the state. He had been imprisoned as a Tory, during the revolution; but, like many other honest loyalists, he had found this circumstance not incompatible with the possession, at a later period, of

the public favor. The people, though zealous in the cause of independence, were not vindictive or intolerant in their feelings; and when the danger was past, they looked to men's present conduct, rather than to their former opinions on a subject respecting which men might fairly differ. Sheafe had been elected Senator in Congress, in 1802, but had held his seat only one session. His opposition to the war of 1812 was now urged against him, as a proof that the Tory of the revolution was still the devoted partizan of the mother country. It was, perhaps, as an offset to this charge of toryism in Sheafe, that the story was told respecting Governor Plumer's being arrested for the same offence, during the revolution, as related in a former chapter. This story was at once contradicted; and the facts respecting Sheafe, though known, probably deprived him of very few votes. Of the whole number thrown, he had 18,326, and Mr. Plumer 20,652. This was the largest popular vote ever thrown in the state. It is curious to observe the increasing interest taken in politics by the mass of the people, as shown by the yearly increase of the votes. In 1790, the whole number thrown for chief magistrate was in the proportion of one vote to seventeen of the inhabitants; in 1800, one to eleven; in 1810, one to seven; and in 1816, one to less than six. This augurs well of the people, as it shows an increasing interest in

their own affairs, and a determination not to lose their rights by a neglect of the elective franchise.

When the result of the election was known, the Governor received many congratulations from his correspondents on his success; and among others, March 22d, 1816, the following from Richard Rush, then Attorney-General of the United States, afterwards Secretary of the Treasury, and Minister to England:

“I beg leave to offer to you my cordial congratulations upon the happy issue of the election in New Hampshire. May the great cause of Republicanism go on thus to triumph in the states about you. May Massachusetts be so fortunate, in her turn, as to get her Dexter; thereby serving more and more to disappoint all the efforts and the hopes of those who know not how to value our noble institutions.”

This aspiration respecting Dexter was not answered, as he died, May 4th, 1816, soon after it was made.

April 17th, 1816. “Spent the day at Portsmouth; received much attention from men of both parties. My rival, James Sheafe, took an early opportunity of calling upon me at my lodgings, and politely urged me to dine with him; but my engagements prevented me.”

It may be here added, that he kept up, during life, a friendly intercourse with many worthy men who were his political opponents; and that his personal respect for them was never impaired by the warmth

of these party contests. He wielded boldly and unsparingly against them all the weapons of political warfare ; but it was without malice or personal ill-will.

May 18th, 1816. "I have been requested to be a candidate for Senator in Congress, but have refused. I want no office whatever ; but if I am to be in the public service, I prefer that of Governor."

June 4th. "Perceiving, from the applications made to me by gentlemen from various towns, as to when I should set out for Concord, that measures were preparing for a numerous escort, I resolved to proceed thither without waiting to be officially informed of my election. Early in the afternoon I arrived at Concord."

5th. "Spent the day at my lodgings, without making any visits, except one of ceremony to Governor Gilman, whom I found afflicted with the gout. He received me with politeness, and appeared in good spirits. The calls upon me were many ; and among others was one from the Reverend Dr. Parish. The moment his name was announced, my writing the 'Layman' occurred to my recollection. His attachment to President Wheelock, and his belief of my aiding Dartmouth College, gave him pleasure in visiting me, though he knew I had zealously supported the late war, to which he was outrageously opposed. On telling him that my health was good for one of my slender constitution, he replied, with an emphasis, 'In *that* we harmonize.' He is man of strong passions, governed by feeling more than reason."

6th. "At twelve o'clock, I met the two Houses, in the Representatives' Hall, and found the galleries and avenues

crowded. After I had taken the affirmation of office, I delivered my speech, which occupied about twenty minutes. After dinner, Dr. Parish spent two hours with me very pleasantly."

Parish was warmly interested in behalf of Dr. Wheelock, and wrote afterwards to Judge Woodward: "We rejoice, we exult, in the firmness, constancy and success of Governor Plumer, to whom I pray you to give my thanks for the noble part he has taken in defence of our venerable friend."

Among the subjects recommended by the Governor to the attention of the Legislature were the encouragement of manufactures by exempting them, for a limited period, from taxes; the districting of the state for the choice of electors and members of Congress; the reduction of salaries; and the subject of jury trials. The first of these recommendations was adopted, and had the effect, with other liberal provisions of the laws, to draw much foreign capital into the state, greatly to the benefit of its industry, wealth, and population. The districting recommended by him has since been adopted, as to members of Congress, but not as to electors. The reduction of salaries was a more popular measure; and the rare example of a Governor recommending the reduction of his own salary, was sure to find favor with the Legislature. He had attempted the same reduction,

without success, in 1797; and, now that it affected his own remuneration, he was not less disposed to urge it. Writing to John Quincy Adams, (July 30th,) he said: "The great anxiety that too many of our countrymen discover for office, as the means of acquiring money—a motive too sordid to exist with, much less to cherish, patriotism—induced me to recommend a system of economy in relation to salaries. It was a feeble effort to inspire the people with more noble motives and more exalted views, than pecuniary rewards produce; to allure them with the love of fame and of the public good." His ideas on this subject were well responded to in a letter, which he afterwards received from Mr. Adams, (July 6th, 1818.) "I am convinced," says Mr. Adams, "that it is just and patriotic to make all offices of high trust and honor rather burdensome than lucrative. Real patriotism will cheerfully bear some pecuniary sacrifice; and the appetite of ambition for place is sufficiently sharp-set, without needing the stimulant dram of avarice to make it keener."

With respect to trials by jury, there had, in his opinion, been too great a disposition, of late, in the courts to set aside verdicts, and thus to arrogate too much authority in the trial of cases; but it may be doubted whether the limitation he recommended of the power of the court to set aside verdicts, to cases of bribery or corruption, would contribute to the stabil-

ity or the uniformity of the law, by making it depend practically for its rules of action on the feelings or the opinions of jurors, instead of the knowledge and experience of the judges. No law was passed on the subject.

The Governor's care for the rights of conscience and of private judgment in matters of religion, was evinced by his recommendation to grant acts of incorporation to religious societies, in all cases, and to all sects who applied for them.

But the two most important topics of the Governor's speech were those relating to Dartmouth College, and to the judiciary acts of 1813. The latter were considered by the Republicans as unconstitutional, and, as such, to be repealed without delay. This repeal passed, by a strictly party vote, in the House, yeas 97, nays 83; in the Senate, yeas 8, nays 4. It was signed by the Governor, June 27, 1816. Several important questions were at once raised by this act. The first was as to the effect of the repeal on the judges of the courts so abolished. By some, it was contended that, the law under which they acted being unconstitutional, they were, from the beginning, usurpers, and that no action need be had in relation to them. But the safer opinion seemed to be that, being judges *de facto*, if not *de jure*, they were "entitled to the same rights, immunities and privileges in their office as other judges;" and, there-



fore, that, if they were removed, it must be under the constitutional provision, on address of the Legislature, by the Governor and Council. This was accordingly done. The next question was as to the judges of the old courts; and it was thought advisable to remove them also. When this was done, the state presented the singular spectacle of a Commonwealth without judges. The next step proposed was the turning out of the Federalist sheriffs, appointed on the removal of Messrs. Pierce and Butler. An address to that effect passed the Senate, but was postponed in the House, on an intimation of the Governor that the measure would be, in his opinion, illegal.

The law respecting Dartmouth College grew out of difficulties between the Trustees of that institution and its President, John Wheelock, which had resulted in his removal from office. The subject was noticed in the speech of the Governor, who, after referring to what he regarded as defects in the charter of the college, recommended to the Legislature to "make such further provisions as will render this important institution more useful to mankind." The act passed, June 27th, 1816, in pursuance of this recommendation, changed the name of the institution from College to University; increased the number of the Trustees from twelve to twenty-one; and created a board of Overseers, consisting of twenty-five members. These latter were to be appointed by the Governor and

Council; as were also, in the first instance, the new Trustees. "My object," said the Governor, "is not limited to the restoration of Wheelock. It is to establish the authority of the Legislature over the institution, so far as to secure to the people the objects for which it was founded, and to form a useful connection between the government and the college." In the appointment of Trustees and Overseers he introduced men of both political parties, and of all the prominent religious sects. The college government had been hitherto Calvinistic in its religion, and Federalist in its politics. His appointments brought both political parties into each board, without giving any one religious sect the preponderance in either. Dr. Parish having written to him, expressing the hope that a man's being a Federalist would not prevent his being elected an officer of the institution, he said, in reply, "It has been a subject of deep regret to me that the cause of Dartmouth University has been considered a party question. My political opponents made it such, in hopes of obtaining support to their party politics. But, had I the power of appointing the officers of the University, I would select those men only for office who are best qualified, without regard to the religious sect or political party to which they are attached." The act itself provided that perfect freedom of religious opinions should be enjoyed by all the officers and students of the University; and that no officer or

student should be deprived of any honors, privileges, or benefits of the institution, on account of his religious creed or belief. It was an essential part of his plan that the state should extend a liberal patronage to the University, and make it, what it had never yet been, a well-endowed institution. Into the private feuds of Hanover, or the quarrel between Wheelock and the old Trustees, he felt no disposition to enter; but the occasion seemed to him a fit one, to give to the college a less sectarian character, and to plant it firmly on the broad ground of Christian liberality, sound learning, and Republican polity.

The following letter from Mr. Jefferson was in acknowledgment of a copy of the Message, containing the above-named recommendations.

“MONTICELLO, July 21st, 1816.

“I thank you, sir, for the copy you have been so good as to send me of your late speech to the Legislature of your state, which I have read a second time with great pleasure, as I had before done in the public papers. It is replete with sound principles, and truly Republican. Some articles, too, are worthy of notice. The idea that institutions, established for the use of the nation, cannot be touched nor modified, even to make them answer their end, because of rights gratuitously supposed in those employed to manage them in trust for the public, may, perhaps, be a salutary provision against the abuses of a monarch, but it is most absurd against the nation itself. Yet our lawyers and priests generally incul-

cate this doctrine ; and suppose that preceding generations held the earth more freely than we do ; had a right to impose laws on us, unalterable by ourselves ; and that we, in like manner, can make laws, and impose burdens on future generations, which they will have no right to alter ; in fine, that the earth belongs to the dead, and not to the living. I remark, also, the phenomenon of a chief magistrate recommending the reduction of his own compensation. This is a solecism of which the wisdom of our late Congress cannot be accused. I, however, place economy among the first and most important of Republican virtues, and public debt as the greatest of the dangers to be feared. We see in England the consequences of the want of it,—their laborers reduced to live on a penny in the shilling of their earnings, to give up bread, and resort to oatmeal and potatoes for food ; and their landholders exiling themselves to live in penury and obscurity abroad, because at home the government must have all the clear profits of their land. In fact, they see the fee-simple of the island transferred to the public creditors, and all its profits going to them for the interest of their debts. Our laborers and landholders must come to this also, unless they severely adhere to the economy you recommend. I salute you with entire esteem and respect.

“THOMAS JEFFERSON.”

On the adjournment of the Legislature, the Governor and Council proceeded to appoint the Judges of the Superior Court and Common Pleas. It had been easy to turn out the old judges, but it was not found so easy to appoint new ones in their places. The

removed judges were Federalists; and the Republican Councillors, flushed with their recent party victory, felt called upon to retaliate on the intolerance of their opponents, by appointing none but Republicans to office. But the Governor told them, at their first meeting, that the minority had rights, which it became him to respect, however little others had done so; and that he could not consent to have all the judges selected from one political party.

July 1st, 1816. "Early in the morning, I met the Council; and, after spending some time in talking upon the subject of appointments, we proceeded to make nominations of Judges of the Superior Court. I named Jeremiah Mason, William M. Richardson, and Samuel Bell. The Council unanimously agreed to nominate Richardson. The Republicans nominated Bell; but the Federalists opposed him on account of his conduct as President of the Hillsborough Bank. A majority declined nominating Mason. I then proposed George B. Upham, a Federalist, a good lawyer, and a man of an irreproachable moral character. The two Federal Councillors zealously supported, and the three Republicans as decidedly opposed him. We then endeavored to fix upon a Chief Justice for the Eastern District. Clifton Claggett and Daniel M. Durell were named. The question being taken on nominating Claggett, two of the Council were for him, and three against him. A majority could not be obtained for Durell, or any other man. William H. Woodward was unanimously agreed upon as Chief Justice of the Western District."

2d. "Met the Council early in the morning ; urged the nomination of Upham ; but the Republican Councillors declined agreeing to him. We then conversed on a candidate for Chief Justice of the Common Pleas for the First District ; and it was agreed to nominate Durell. A majority of the Council finally agreed to nominate Upham for the Superior Court. We then signed the nomination of all the seventeen judges, the number necessary to be appointed. Some of them were not such as I should have nominated, if I had possessed the sole power of appointment ; but they were the best I could induce the Council to agree to."

3d. "A majority of the Board agreed upon the lot upon which the State House should be erected."

4th. "Fixed the site for the State House."

5th. "Met the Council, and appointed those we had nominated for judges, and also a Committee to build the State House. After breakfast, I rode to Epsom, to see my sister."

6th. "In the morning, I pursued my journey home on horseback. At Deerfield line, I was met by an escort, which continued to increase till I reached my own house, there being more than five hundred gentlemen on horseback. The concourse of people was great, more than fifteen hundred at the house. They behaved very well ; and by eight in the evening they all left me."

The appointment of Federalists to office by a Republican Executive was an act of justice and liberality, which neither party knew how duly to appreciate. The leaders of the Federal party had not given over

the hope of regaining their lost ascendancy in the state; and they saw that if, co-operating with the liberal policy of the Governor, some of their ablest men took seats on the bench by his appointment, it would not be easy, under any local issues which they could raise, now that the old national ones were closed, to rally the party strength for a new contest. Upham, who was appointed to the Superior Court, told me, many years after, (June 4, 1847,) that he had, at first, determined to accept the office; but, on coming to Concord, he was advised by Thomas W. Thompson and other Federalists not to do so; that, on his way to Portsmouth, to consult Mr. Mason on the subject, he was told by Roswell Stevens, of Pembroke, that Amos Kent, of Chester, had, on the advice of Daniel Webster, declined the judgeship offered him; and that other Federalists appointed would do the same. On hearing this he returned home, and notified the Governor that he declined the appointment, though he should, he said, have been happy, under other circumstances, with the concurrence of his friends, to accept it. The Federal party could hardly have made a greater mistake than to reject the olive branch thus offered to them, at a time when their power was, practically, at an end, not in the state only, but throughout the Union. Yet such was still the inveteracy of feeling with many, that the Governor was, soon after, informed that one Federal-

ist whom he had appointed a judge, not content with declining the office, had nailed up his commission in a grog-shop; thus exposing it to the derision of its inmates, and himself hardly less to the pity, or the contempt, of all moderate and reflecting men. William H. Woodward was the only Federalist, out of seven appointed judges, who accepted the office. "Though in making these appointments, I have been directed," says the Governor, "by what I consider the public interest, I am sensible I have made personal enemies. The disposition of offices makes many enemies, and but few friends. What is worse, I am held responsible for all appointments, but have not the power to appoint, in all cases, those whom I consider best qualified."

Not discouraged by his ill success thus far, Governor Plumer made one more attempt to exclude politics from the temple of justice, and thus to secure the confidence of all parties in the impartiality, as well as in the ability of the courts of law,—an object which he justly regarded as second to none which he could accomplish in the appointments which he had to make. For this purpose, he sought to place his old friend Jeremiah Mason, as Chief Justice, on the Bench of the Superior Court. Richardson, who held that office, offered to resign, and take a side-seat under Mason. When applied to in person by the Governor, Mr. Mason seemed, at first,



not displeased with the offer, but doubted whether he could be appointed. "Your views," he said, "are too liberal for your party. Your Council will not consent to my appointment." The Governor afterwards wrote to him on the subject. "It is an office worthy of your ambition; and one which I hope you will hold, till you are removed to the Bench of the Supreme Court of the United States." In his answer, (August 18th, 1816,) Mr. Mason said:

"I am sensible of the honor which you do me in your letter of the 7th instant. Could I flatter myself with the belief of possessing the necessary qualifications, the proposed office would certainly satisfy my highest ambition. There would, however, still remain two objections, which to me appear insuperable. The salary allowed by the present law appears to me wholly inadequate. My other objection arises from the late organization of the Court. After thus stating the reasons which prevent my complying with your proposal, I trust it is unnecessary to add that political considerations, which, in these times, are often supposed to determine everything, have, with me, on this subject, no influence."

In a pecuniary point of view, the decision was undoubtedly correct, the salary bearing no comparison with what he received for his services at the bar. But had he accepted the office, besides the service rendered the state, he could have built up for himself, in the twenty-two years for which he might have

held it, a judicial reputation such as no New England judge has ever yet attained. As Mason declined going upon the Bench, Richardson remained Chief Justice ; and the place which Upham had refused, was ultimately conferred on Levi Woodbury. Woodbury, called in derision, at the time, "the baby judge," was not quite twenty-seven years old. He was then Secretary of the Senate, and thought of by nobody as judge, perhaps not even by himself. But the keen eye and quick discernment of the Governor, with whom he boarded, at the house of Isaac Hill, had seen enough, during the session, to satisfy him that he was qualified for the place, and would do no discredit, in later life, to his early patron. Nor did Woodbury disappoint these expectations. He was afterwards Governor of the State, Senator in Congress, Secretary of the Navy and of the Treasury, and died Judge of the Supreme Court of the United States, with the near prospect, had he lived a year longer, of being President. Thirty-five years after this first appointment, on occasion of Woodbury's death, the Attorney General, Walker, spoke of "the venerable Plumer," and characterized him as "that great and unerring judge of the heads and the hearts of men,"—terms, in their full import, inapplicable to man, but, in a lower sense, not ill describing the knowledge of human nature, for which he was distinguished.

After filling this and other vacancies in the courts, the Governor says, in his journal :

“ These appointments have relieved me from much anxiety. Our courts of law were never before filled by men so well qualified for their places as are the present judges. I have had great trouble, and incurred great odium ; but the intolerance of others has been, and shall be, no rule for me. My liberality gains me no credit with either party. But I will do my duty ; and when I retire to private life, I shall enjoy a richer reward than that of office.”

October 3d, 1816. “ I am informed that, before my election in March, the President had determined to appoint me Commissioner, under the late treaty with England, to run the line between the United States and Canada ; but my election made this improper. This was an office unsought, and unthought of by me. I have recently been requested to nominate an agent from this state to attend the Commissioners.”

It appears, too, from a statement of Mr. Mason, that he was, about this time, spoken of as likely to succeed his friend, Adams, as minister to Russia. But this was an office for which, with his ignorance of French, he would have thought himself unfit.

To Judge Woodward he wrote, (August 10th, 1816 :)

“ I intend to be in Hanover in season ; but you must excuse me from meeting an escort. It has been an object with

me, through life, to avoid parade. It is troublesome to my friends, and painful to me, as ill according with my views of the simplicity of a Republican government. I feel a grateful sense of the value of public approbation. But to enjoy the consciousness of having merited it, is to me a sufficient reward for the toils of office, and the calumnies of the ignorant and the designing. You will, therefore, be so obliging as to make my compliments to Colonel Poole and my Hanover friends, and dissuade them from taking the trouble to meet me on the road."

In his speech to the Legislature, (November 20th, 1816,) the Governor confined himself chiefly to the affairs of the State, those of the Union not requiring from him, since the return of peace, more than a passing notice. The strict notions of economy in the public expenditures, which, on a former occasion, had prompted him to recommend the reduction of salaries, including his own, now showed itself in various suggestions made by him in relation to the fees of sheriffs, treasurers, clerks, and other county officers. These were, in part, adopted by the Legislature, and led to some useful improvements in the laws on this subject. Among other matters adverted to in the speech were the building of the State House, the funding of the treasury notes received from the General Government, and the affairs of the University. It soon appeared that, in relation to the two former

of these, and indeed, with respect to his administration generally, the Governor was now to encounter, among his own party, an opposition more envenomed, if possible, than he had before experienced from his Federalist opponents. Messrs. Morrill, Pierce, Claggett, Quarles, and Butler, the very leaders of the Republican party, were, for various reasons, unfriendly to him. Morrill, at that time Speaker, was afterwards Senator in Congress, and Governor of the State; Pierce and Quarles were members of the Council, and the former was afterwards Governor. Claggett had been judge of the Superior Court; and both he and Butler were members of the House, and afterwards elected to Congress. These acknowledged leaders of the party might reasonably be expected, in any given case, to be too strong, by their united force, for any individual who refused submission to their will. Morrill, as Speaker, appointed Committees on the State House and the Treasury Note business, who reported unfavorably to the action of the Governor in both these cases. He had received from the General Government forty thousand dollars in treasury notes, bearing an interest of  $5\frac{2}{5}$  per cent., on account of military services in the late war, and had funded the sum at the loan office, receiving United States six per cent. stock for the amount due on the notes. The committee thought he ought to have sold the notes, which were at a great discount in the market,

and put the proceeds in the treasury, or bought United States stock with it. This notion of turning broker, and speculating with the public funds, had never occurred to the Governor, who disposed of the United States notes, as Governor Gilman, with the approbation of the Legislature, had, the year before, done with those received by him.

The location of the new State House, whether north or south of a given line, on the Main Street in Concord, was a question in which it might have been thought few would take much interest, except the dwellers on that street. Yet it excited a furious contest, not only in the town, but among the members of the Legislature, and through the state. As the spot selected by the Governor and Council was at a considerable distance south of the old State House, the people at the north end, with whom nearly all the members of the Legislature had hitherto boarded, were likely, by the new location, to lose thenceforth this monopoly. The clamor which they raised was in proportion to their supposed interest in the question; and it was soon found that many of the members were deeply infected with the feelings and the prejudices of their landlords on this subject,—“representatives,” as Toppan, of Hampton, said, “of their respective boarding houses, rather than of the state.” The spot selected was denounced as “a quagmire, and a frog-

pond;" and Colonel Prescott, of Jaffrey, amused the House with an account of the frogs he had seen leaping about in the cellar, which might be expected, at some future session, should the court be held there, "to make as much noise in it," he said, "as I do now." The Council had been divided on the location; and as the Governor's influence was supposed mainly to have settled the question, the odium of the measure, with those who disliked it, fell chiefly on him. The report of the committee was, however, rejected by the House, yeas 73, nays 84; and it is now generally admitted that no better spot could have been selected.

Many timid Republicans were alarmed at these divisions in the party. "But difficulties," said the Governor, in a letter to me at the time, "neither embarrass, nor discourage me; and I seldom despond. I have always found that what people call dangers appear greater at a distance, than when near at hand." It was in the midst of these excitements, increased as they were by the Governor's putting his veto on a bill which had just passed both Houses by very strong majorities, and when, by many, it was believed that his popularity was gone forever, that he received the most convincing proof that, however certain leaders might be disaffected, the great mass of the party did justice to his motives, and had lost none of their confidence in his integrity.

Under date of December 17th, 1816, he says:

"The Republicans met this evening, to nominate a candidate for Governor for the next year. Ninety-three members attended,—a larger number than at any other caucus this session. General Pierce, in the chair, opened the meeting by observing that the Republicans were much divided, and would not probably be able to agree upon a candidate. He therefore proposed that the subject be postponed. Claggett seconded the motion, and was followed by Butler on the same side. Two or three other members replied, and the motion was negatived. On counting the ballots for a candidate, there were, for David L. Morrill, one ; for Levi Bartlett, seven ; and eighty-five for me. The two Councillors and the Speaker, with Butler and Claggett, could get only three other members to vote with them. *They* want a Governor whom they can govern. I am not altogether such a one."

It was not without pleasure that, amidst the violence of these factious discontents, he received the following letter from his friend, John Quincy Adams, at that time Minister to England :

"HIS EXCELLENCY WILLIAM PLUMER, }  
GOVERNOR OF NEW HAMPSHIRE. }

"EALING, near London, January 17th, 1817.

"MY DEAR SIR,—I am yet to acknowledge the receipt of your two obliging favors of 6th March and 30th July last, the latter enclosing a copy of your speech to the Legislature. During the whole time that I have enjoyed the happiness of an acquaintance and friendship with you, there has been so



general a coincidence of sentiment between us upon all the objects of concernment to our country, which have successively arisen, that I can ascribe it to no other cause than to the similitude, or rather the identity, of our political and moral principles. It was, therefore, not possible for me to read your excellent speech without great pleasure, and I was much gratified to see that its merits did not escape public notice, even in this country. It was republished entire in one of the newspapers of the most extensive circulation ; not as, during our late war, some of our Governors' speeches were republished, to show the subserviency of the speakers to *the bulwark of our holy religion*, and to the press-gang, but professedly for the pure, and patriotic, and genuine Republican sentiments with which it abounded. It has been a truly cheering contemplation to me to see that the people of New Hampshire have recovered from the delusions of that unprincipled faction, which, under the name of Federalism, was driving them to the dissolution of the Union, and, under the name of Washington, to British recolonization,—to see them returning to the counsels of sober and moderate men, who are biased by no feelings but those of public spirit, and by no interests but those of their country. Such a person, I well knew, they had found in you, and such, I hope, you will find in your present and future coadjutors. Although the progress of reformation has not been so rapid and effectual in our native state as it has been with you, yet the tendency of the public opinion has been steadily, since the peace, in that direction, as it has been throughout the Union ; and, as that faction cannot fail to sink in proportion as the country prospers, I do not despair of

seeing the day when the policy of all the state governments will be in unison with that of the nation.

“ We have lately received what may be termed President Madison’s valedictory message to Congress ; and grateful indeed must it be to his feelings to compare the condition of the country, at the close of his administration, with the turbulent and perilous state in which it was at the period of his first election. It will be the great duty of his successor, and of the Congress with which he is to operate, to use diligently the days of peace to prepare the nation for other trials, which are probably not far distant, and which, sooner or later, cannot fail to arise. Your speech most justly remarks that the late war raised our public character in the estimation of the other nations ; but we cannot be too profoundly impressed with the sentiment that it has by no means added to the number of our friends. In this country more particularly, it is impossible for me to disguise to myself that the national feeling of animosity and rancor against America and the Americans, is more universal and more bitter than it was before the war. A considerable part of the British nation then despised us ; and contempt is a feeling far less active in spurring to acts of hostility than hatred and fear, which have taken its place. No Briton of any party ever imagined that we should be able to maintain a contest against them upon the ocean. Very few among ourselves expected it. Our victories, both by sea and land, though intermingled with defeats and disasters, which *we* ought to remember more studiously than our triumphs, have placed our character, as a martial nation, upon a level with the most respectable nations of Europe ; but the effect here has been to unite all parties in the conviction that we are

destined to be the most formidable of the enemies and rivals of their naval power. Now the navy is so universally the idol of this nation, that there is not a statesman of any description or party, who dares befriend anything opposed to it, or look with other than hostile eyes to anything that threatens its glory or portends its downfall. The opposition party, and its leaders before the war, were much more liberally disposed towards America than the ministerialists; but, after the war commenced, they joined the ministers in full pack; and, since the peace, their party tactics have constantly been to cavil against any liberality or concession of the ministers to America. The issue of the late European wars has been to give for the moment, though it will not last long, to the British government, an ascendancy of influence over the whole continent of Europe, which they will naturally use to inspire prejudices and jealousies against us. There is already, in all the governments of Europe, a strong prejudice against us as Republicans, or as the primary cause of the propagation of those political principles, which still make the throne of every European monarch rock under him, as with the throes of an earthquake.

“With Spain we are, and have been for years, on the verge of war. Nothing but the impotence of the Spanish government has hitherto prevented the explosion, and we have so many collisions of interest as well as of principles with Spain, that it is not only the court, but the nation, which hates and fears us.

“In France, the government, besides being in tutelage under Britain, have feelings against America, more venomous even than the British. The mass of the French nation

have no such feelings, but they have no attachment to us, or friendship for us. Their own condition absorbs all their feelings, and they would delight at seeing us at war with Great Britain, because they flatter themselves that would operate as a diversion in their favor, and perhaps enable them to break the yoke under which they are groaning.

“We have claims for indemnities against the governments of France, Spain, the Netherlands, Naples, and Denmark, the justice of which they do not admit, and which nothing but necessity will ever bring them to acknowledge.

“The very pursuit of those claims has a tendency to embroil us with those nations, as has been fully exemplified in the result of Mr. Pinkney’s late mission to Naples, and yet, as the claims are just, they ought not to be abandoned. The states of Barbary owe us a heavy grudge for the chastisements we have inflicted upon all of them, and for the example first set by us to the European nations, of giving them battle instead of tribute, and of breaking up their system of piracy. We have, therefore, enemies in almost every part of the world, and few or no friends anywhere. If there be an exception, it is in Russia; but even there the shameful misconduct of the Russian Consul-General at Philadelphia, and the infamous manner in which he has been abetted by the minister, Daschkoff, have produced a coldness on the part of the Emperor which endangered at least the harmony of the relations between the two countries.

“Add to all this that there is a vague and general sentiment of speculative and forecasting jealousy against us prevailing all over Europe. We are considered not merely as an

active and enterprising, but as a grasping and ambitious people. We are supposed to have inherited all the bad qualities of the British character, without some of those of which other nations in their dealings with the British have made their advantage. They ascribe to us all the British rapacity, without allowing us the credit of the British profusion. The universal feeling of Europe, in witnessing the gigantic growth of our population and power, is that we shall, if united, become a very dangerous member of the society of nations. They therefore hope, what they confidently expect, that we shall not long remain united ; that, before we shall have attained the strength of national manhood, our Union will be dissolved, and that we shall break up into two or more nations, in opposition against one another. The conclusion from all which that we must draw is, to do justice invariably to every nation, and, at the same time, to fix our military, naval, and fiscal establishments upon a foundation adequate to our defence, and enabling us to obtain justice in return from them.

“I have not yet been able to procure for you Adair’s History of the Indians, but I have found, at a very moderate price, a complete set of the Remembrancer, including the prior documents, all in eleven volumes, which I propose to send you by the Galen, to sail about the first of March.

“I remain, with great respect and attachment, dear sir,  
your friend and humble servant,

“JOHN QUINCY ADAMS.”

The Trustees of the University were required by the law under which they were appointed to meet

on the 26th of August ; but as they failed at that time to form a quorum, it was not till the Legislature in November authorized them to meet at a different time, that they were organized as a board. Nine out of twelve of the old Trustees declined accepting the new law, and refused to act under it. They continued to act under the old charter ; and instituted a suit against Judge Woodward, the Treasurer of the University, to try the validity of the new law. This suit was decided against them in November, 1817, by the Superior Court, which pronounced the law constitutional, in an elaborate and ably reasoned opinion delivered by Chief Justice Richardson. The case was carried up to Washington, and finally decided, in the Supreme Court, in favor of the old Trustees ; upon the ground that the law was a violation of that clause of the Constitution of the United States, which provides that "no state shall pass any law impairing the obligation of contracts." The court held that, the college being a private eleemosynary corporation, the original charter was a contract between the royal government on the one hand, and the Trustees on the other, which could not be altered by the state, without the consent of the Trustees. Such consent not having been given, the act was invalid. This decision terminated, at once, the brief existence of Dartmouth University. It was not made till after Governor Plumer had retired from

public life. He was slow to believe that this clause of the Constitution respecting contracts was intended to apply to a case like that of the University. In this doubt he was sustained by Judge Marshall, who said that, though the framers of the Constitution had not probably foreseen its application to this class of cases, their words were broad enough to embrace it. However that might be, and without setting up his opinion, supported as it was by that of the State Court, against the judgment of Marshall and Story, Governor Plumer regarded it as unfortunate for all parties, that the decision should have been such as to withdraw the college at once from the control and from the patronage of the state. Considering it as essentially a public institution, he held that the authority of the state ought rightfully to extend over it, and that this would be equally for the benefit of the college and of the community.

The opposition which the Governor had encountered among his own party in the Legislature was transferred to the people, in the canvass for the March elections. A paper, called "The People's Advocate," established in Portsmouth in opposition to Messrs. Livermore and Parrott, in the preceding November election, was now turned upon Governor Plumer, with a virulence of personal abuse seldom equalled in party contests. Some honest, but overzealous Republicans, who could not pardon the

appointment of a few Federalist judges, joined this opposition ; but the clamor came chiefly from men whose resentments were inflamed by the sting of personal ambition, disappointed of its aim, by the refusal of the Governor to give them or their friends the offices they claimed. With these it was not so much that he had been liberal to his political opponents, as that he was insensible to their own individual merits. This factious opposition made, however, little impression on the public mind, beyond the disgust excited by the violence of its abuse, and the manifest falsehood and injustice of its charges. This feeling of condemnation grew so strong, before the close of the campaign, that Butler, Bartlett, and other leading men, who were supposed to favor the movement, came out, one after another, in the public journals, to deny all connexion with it.

When the votes came to be counted, (June 5th, 1817,) it was found that out of thirty-five thousand five hundred and eighty-five cast, the Advocate candidate had received only five hundred and thirty-nine. The Federalists were divided between Mason and Sheafe ; and Governor Plumer received a majority of more than three thousand votes over all the other candidates. This signal failure of the Advocate party put an end to all further opposition to him among the Republicans ; and his firmness and impartiality had secured him so much credit among



enlightened men of all parties, that he met thenceforth no serious personal opposition from any quarter. The treasury note stock, about which so much clamor was made, had, meantime, risen above par, and had been sold to meet the war expenses; the appointment of the judges was no longer a question in dispute; the State House, which, it was predicted, would sink out of sight in the quagmire, was rising gradually to completion, in the Doric simplicity of its granite strength; and the frogs, which, during the November session, had croaked so dismally in its cellar, were no longer heard under the bright sun of the succeeding June.

Two brief extracts from letters of this period will close the present chapter; one respecting the Colonization Society, then just founded, the other respecting the University.

In a letter to the Rev. Thomas C. Searle, of Maryland, (Jan. 13th, 1817,) he says:

“I rejoice that measures are taking in the south to ameliorate the sufferings of the negroes. I have some doubts whether free blacks will consent to form a colony in a distant land. If they do not, will our laws justify compulsion? Perhaps sufficient numbers may be liberated, on condition of their forming such a colony. I should prefer that it should be in Africa, rather than on the shores of the Pacific. If on the latter, they may hereafter prove troublesome neighbors to us, when we shall extend, as we soon shall, our settlements

to that ocean. But, in all events, I will afford my feeble aid and influence to rid the country of slaves and of black men,—a blot upon our character, an obstruction to our prosperity, and a severe scourge to the nation.”

To the Rev. Elijah Parish, he writes, (April 21st, 1817:)

“It affords me pleasure to hear that the measures I have adopted in relation to Dartmouth University meet your approbation. On that subject, as on others, I have done what I considered my duty, and nothing more. It gives me great satisfaction to reflect that I had an agency in restoring the worthy Wheelock to the office from which he was unjustly removed. But it has pleased Heaven to remove him thence. He is gone *where the wicked cease from troubling, and the weary are at rest*. I have no doubt that the University will yet become prosperous, if its friends do their duty. In the mean time, we must wait, in patience, the issue of the suit now depending in the Superior Court.”

## CHAPTER XII.

### CLOSE OF POLITICAL LIFE.

GOVERNOR PLUMER met the Legislature, and took the affirmation of office on the 5th of June, 1817. His message contained many useful suggestions, and recommended various amendments of the law, but none which require special notice here. A resolution, which had passed the Legislature, was returned by him with his veto, and rejected by the House, yeas 4, nays 143.

On the eve of the adjournment, the Legislature sent him a bill, making the fact of joining the Shakers, and living with them six months, a cause of divorce. As he had not time to return it with his objections, and did not sign it, it failed to become a law. It grew out of the case of Mary Dyer, who, with her husband Joseph, had, some years before, joined the Shakers, at Enfield. He remained with them; but Mary came away, and now applied for a law giving her the possession of her children. She was a woman of great energy and decision of character. She kept up an interminable warfare with the society in memorials to the Legislature, and publications against them.

Thirty-five years after her first petition, she was still an applicant to the General Court on this subject. "Mary," said her husband, in the hearing before the Legislature in 1818, "is a capable *critter*. We got along very well together while I let her have her own way in every thing; but she won't bear contradiction. Her tongue is an unruly member, with a world of iniquity in it, if you cross her." I was, at that time, a member of the House, and had abundant proof that Mary's sharp tongue and shrewd wit were more than a match for Joseph and his brethren, though some of the latter were shrewd enough too. Her statements about Shaker practices were sufficiently piquant; and some of her repartees and retorts were such as could hardly have been surpassed in keenness and efficiency. She carried the House strongly with her, and the popular feeling was much excited. The committee to whom the subject was referred visited, with other members, the Shakers at Canterbury; but we returned without making any very alarming disclosures. "Our Legislature," said the Governor, in a letter to Joseph Hawley, of Rochester, New York, "passed no law in relation to the Shakers, though the subject was fully and ably discussed. I consider that sect, and some others in our country, as being wild and enthusiastic; but I fear that legislative interference with them would produce more evil than good to society. Per-

secution, or what, by its objects, can, in any way, be considered such, seldom fails to build up the sect against which it is directed ; hence, the proverb ‘*The blood of the martyrs is the seed of the church.*’ Nothing is more fatal to enthusiasm than toleration and neglect.”

Soon after the adjournment of the Legislature, President Monroe came to New Hampshire on his tour through the Northern States. He was everywhere received with the most flattering attentions, by all parties, and by all classes of the people. “The era of good feeling” was happily inaugurated on this occasion of the first visit, since the time of Washington, of a Southern President to New England. The leaders of the Federalist party, aware of the altered temper of the times, and feeling that their old *role* of opposition was now out of date, were foremost in their demonstrations of respect for the chief magistrate of the Union. In Massachusetts, he was received by the Governor with the highest civil honors ; and a military escort was assigned him, under a vote of the Legislature, in his passage through the state. Governor Plumer was applied to, by a committee from Portsmouth, to call out the militia for the same purpose here ; but he declined it on the ground of want of power. He wrote to the President on the subject, (July 18th, 1817,) expressing his regret at not being able, consistently with his sense of duty, to order out an escort of honor, on this occasion.

“So cautiously is my power restricted, by the prudence, or the jealousy of our State Constitution, that I have authority, at no time, to order out the militia, except for certain known objects, designated by the Constitution and the laws enacted under it. Among these, there is none, which, by fair construction, can be extended to the present case. I have thought proper to make this statement, in justice both to myself and the state over which I preside. You were informed, while at Portsmouth, of my severe indisposition; and I am now obliged to add, that I am still confined to my bed, by an attack of the typhus fever, which has not yet, I fear, reached its crisis. This unfortunate event has deprived me of the satisfaction of a personal interview with you, and prevented me from receiving a visit at this place, with which I had flattered myself you would have honored me. This letter will be delivered to you by the Secretary of State. Had my health permitted, I should have taken great pleasure in waiting on you, in person, during the time you remained in the state, and in suggesting some subjects of inquiry, which might have merited your attention, in this part of our common country.”

The President wrote in reply, (July 21st, 1817:)

“Meeting your son at Portsmouth, I begged him to assure you that I should be distressed and mortified, if you suffered any uneasiness on my account, since it would delay the restoration of your health. More attention could not have been shown to me, than has been, since I entered New Hampshire. In yielding to it, I have consulted the wishes of my fellow-citizens, rather than my own.”

From Mr. Plumer's journal, about this time, we quote the following extracts :

July 3d, 1817. "My son William came from Portsmouth, and urged me to issue orders for an escort to the President. He said, Richardson, Mason, and others, were surprised at my doubts. They consider the power as incident to the office. This does not satisfy me. The opinions and advice of men, who are not responsible for the act to be performed, are not to guide me, who have examined the subject, and am responsible for what is done. I must act on my own sense of right, and not on theirs."

12th. "Yesterday and to-day, I have been confined by a typhus fever to my chamber, and, the greater part of the time, to my bed."

14th. "I am much debilitated ; but my spirits are good. My physician told me that I was not sensible how sick I was. I assured him that, as the fear of death did not terrify me, I could examine calmly the state of my disease ; and, though weak, I was satisfied that I was not dangerously ill ; that for some days I had expected the attack, and prepared to meet it, by doing all the business of a public or private nature, which I thought necessary. This had fatigued me, and hastened, but not caused, the disease."

24th. "I am so weak that a little business fatigues and oppresses me. My present state exhibits much of the infirmity of age. Though not old, I have survived all my first friends, and a great portion of my early associates. Of the lawyers, at the bar when I was admitted, only six remain. There is not a single judge of any court, or clerk of a court, that was in

office when I commenced public life ; nor a member of either House, treasurer, or secretary, that was such when I first entered the Legislature. Of justices of the peace, not one in twelve is now living, who was in commission when I was first appointed. Indeed, I have survived most of the officers with whom I began public life."

August 26th, 1817. "The ill state of my health prevents my attending the Commencement at Hanover."

October 13th. "Travelled to Concord in my chaise, accompanied by my son George. As I dislike parade, I thought a servant unnecessary."

14th. "In the afternoon, met the Council, and stated to them the business necessary to be done at the present session."

15th. "The Council were unanimously in favor of appointing my son William, judge ; but I informed them that I could not consent to nominate any of my sons to office, and that, if appointed, I was confident he would not accept."

December 21st. "I have recently devoted a considerable portion of time to reading some works of Jeremy Bentham, which he sent me. In many things my opinions accord with his ; for example—he disapproves of oaths. I have never taken an oath."

February 12th, 1818. "I had yesterday a long and close conversation with Judge Bell upon several important subjects of jurisprudence. It, in a great measure, deprived me of sound sleep, for the night. I have experienced, several times, within a year or two, similar effects from mental exertion. Is this evidence of decay in the mental faculties, or does it proceed from other causes ?"

March 21st. "I do not recollect ever feeling so sensibly



the influence of the weather on my mind, as I have to-day. Easterly winds were always disagreeable to me ; but I now became uneasy, peevish, and fretful ; till ultimately it produced pain in my limbs, and languor and sluggishness in my mind. How much of our pain and our enjoyment is dependent on external causes, many of which are beyond our control ! ”

May 12th. “ Met the Council at Concord. I nominated Amos A. Brewster as sheriff of Grafton county ; and the Council unanimously signed the nomination. Isaac Hill complained to me of this nomination ; saying that Brewster was a Federalist, and that it would injure my popularity. I told him, that I neither sought office, nor desired it ; that, in following the dictates of my own judgment, in cases where I was responsible for the measures adopted, I might meet reproach from others ; but I should, at least, avoid the reproaches of my own mind. I could not consent to incur these for the sake of popular favor. If this is lost, by an upright discharge of duty, I am willing to lose it. He said it would destroy the Republican party, if it was understood that Federalists could be appointed by a Republican Governor ; and, in language not very courtly, he urged me to negative the nomination, and appoint Edson. My reply, though in a moderate tone, was severe and pointed.”

The March elections of 1818 were conducted with much less than their usual zeal and acrimony. The Advocate party attempted no organized opposition. Many Federalists voted for the Republican candidate ; others for Jeremiah Smith, or William Hale. Governor Plumer was re-elected by a majority of

more than six thousand votes over all other candidates. His message to the Legislature, June 4th, 1818, contained, as his previous ones had done, various recommendations for the amendment of the laws, chiefly with a view to lessen the number of suits, to expedite the trial of causes, and to diminish the costs of litigation. He also recommended an increase of the salaries of the judges of the Superior Court, which was accordingly made, and the establishment of a law term for the trial of law questions. In this message occur the following recommendations as to the then existing law of imprisonment for debt.

“There is another subject, connected with the amelioration and improvement of the condition of our fellow citizens, which merits your consideration. I mean that of the imprisonment of debtors. Their confinement within the walls of a prison pays no debt, and, instead of increasing, diminishes the means of payment. The loss of the labor, industry and talents of useful citizens, thus deprived of their liberty, not only depresses their ambition, but often subjects towns to the charge of maintaining their families, made destitute by the absence of those who usually provided for them. In ancient times, and in countries less civilized than our own, the power of the creditor over the body of the debtor was almost unlimited. Even in New Hampshire, in the early stages of our government, the debtor was strictly confined within the walls of the prison. The laws, at that time, afforded him no relief; he was imprisoned for life, unless he paid the debt, or was liberated by the humanity of his creditor.

A long period elapsed before a prison yard was established, in which the debtor, by giving bond, was permitted to breathe the common air without the limits of the prison house ; or before indigent debtors were authorized, in any case, to make oath that they were unable to pay their debts. Even then, an unfeeling creditor had authority to retain his debtor during life, by paying a small sum for his weekly support. To the honor of the state, this power of the creditor over his debtor, has been recently annulled ; and certain portions of his property, requisite to support life, exempted from attachment.

“Great as these improvements are, the cause of humanity and of natural justice requires further legislative aid. We are bound, not only to protect the rights of creditors against the frauds of debtors, but to shield the latter against the unjust severity of the former. Our laws still authorize the creditor, after taking the greatest part of the debtor’s property, to deprive him of his liberty by confining him in prison, without affording him the means of subsistence ; and, if poor and friendless, he will be unable to obtain even the liberty of the prison yard. I would therefore recommend that no debtor should hereafter be committed to prison, either upon mesne process or execution, unless the creditor, at the time of commitment, shall pay the cost of commitment, and give to the gaoler ample security for the comfortable support and maintenance of the prisoner so long as he shall be detained by him. If creditors will resort to the severity of depriving debtors of their personal liberty, it is reasonable that they, and not the public or the gaoler, should support them. I also recommend that persons committed, either on

mesne process or execution, should have the liberty, as soon as they are imprisoned, of taking the poor debtor's oath, after giving reasonable notice to the creditor of their intention. I can see no necessity for a poor man, imprisoned on mesne process, to suffer confinement till judgment is rendered and execution levied on him.

"The time appears to be approaching, when imprisonment for debt will no longer exist in any case, but creditors will consider the industry, fidelity and property of their debtors, and not the power of depriving them of liberty, as their only real and sufficient security. To make so great a change at the present time, might be attended with serious inconveniences. Reform, to be useful and permanent, must be gradual. As many persons are imprisoned for small debts, and in such cases where payment is enforced by that means, it is usually obtained, not from the debtors, but from the humanity of their friends and neighbors, I would, therefore, recommend that the bodies of debtors should not be liable, for any debt hereafter contracted, to be arrested on any process issuing from a justice of the peace. Let frauds in concealing property subject the offender to punishment, but preserve, as far as may be, the personal freedom of the citizen; for every unnecessary restraint on his natural liberty is a degree of tyranny, which no wise Legislature will inflict."

It will be observed that the reasoning here goes the full length of the total abolition of imprisonment for debt in all cases; while the recommendation is of a much more limited measure. When reminded of this apparent inconsistency, he replied to the

objector, who was a clergyman, with the text of Solomon, "A prudent man concealeth knowledge ;" and to another he repeated, without condemning, what Dugald Stewart calls the fine and deep saying of Fontenelle, that *the wise man, if he had his hand full of truths, would often content himself with opening his little finger*. "They will run out," he said, "through even this small aperture, faster than men will gather them up." He added: "If you only move in the right direction, though slow at first, you will soon find that you are going fast enough." The event showed that he was not mistaken in this case. I was at that time a member of the House; and the hardest battle we had to fight, during the session, was on this bill "for the relief of poor debtors." It was with the utmost difficulty that even the moderate measure, which he had recommended, was carried; and yet it was a few years only before the total abolition of imprisonment for debt was enacted with the entire approbation of the people. It has since been abolished in nearly all the states.

Another subject brought by the Governor before the Legislature was the proposal of Jeremy Bentham "to submit to their examination, for the use of the state, a complete *code of laws*, founded upon enlightened principles of legislation." "The great importance," he added, "of the object, and the peculiar talents of the author, render the subject worthy of

your mature consideration." This offer of Mr. Bentham was not confined to New Hampshire, but was extended to all the states. The very modest request made by him, which was merely that the state would receive and examine his proposed code, and, when so examined, adopt or reject it at its pleasure, with the express declaration that he would, in no event, accept any compensation for his labors, seemed to entitle him, at least, to a respectful hearing. But the idea that an old man in London, whose name not one in ten of the members had ever heard, should be employed to prepare a code of laws for the state, struck most of them as a thing so strange, not to say ridiculous, that the proposal was dismissed, almost without debate. Along with the official letter from the Governor, informing him of the fact, I sent him a letter, explaining, with as much delicacy as I could, the action of the Legislature, and the probable causes of the rejection of his disinterested and generous offer. I suggested to him, at the same time, the propriety of giving to the world the results of his labors in jurisprudence, without waiting for any such invitation from a Legislative Assembly, as he had, in this case, sought to obtain. Mr. Bentham, in reply, invited me to come and spend with him, "at his hermitage in London," six months, or as many more as I had to spare, in digesting and drawing out such a code. This invitation I

respectfully declined ; not only because I was, at that time, otherwise occupied in the public service, but as not feeling myself competent to a task of so much delicacy and importance.

Before meeting the Legislature in June, Governor Plumer had made up his mind not to be a candidate for re-election.

“The cares and the anxieties of the office of Governor,” he writes, (May 30th, 1818,) “oppress, at times, my mind, and injure my health. Placed at the head of the government, it is my indispensable duty to attend to all its concerns, and, in a great measure, to move and direct its operations. This requires a degree and constancy of watchfulness and attention, which my feeble health is, at times, not able to sustain. In thus declining a re-election, I have consulted no one, except my sons, who, for months, have advised me to it.”

Our advice, in this case, was founded upon the visible injury which his health suffered from his extreme anxiety to do every thing, and more than every thing, which the duties of his office seemed in the remotest degree, to require of him. He left nothing to subordinates, but did every thing himself. Sick or well, he would do the business of the day within the day ; for to-morrow would bring also its duties, which he might then be less able to perform. When he went to bed, early or late, his table was always clear, the letters all answered, the commissions

signed, the orders issued. At the same time his love of reading, study and retirement, was unabated ; and he felt restless and dissatisfied, if he could not devote some portion of each day to his books. What troubled, however, his frank and manly nature more than the mere labors of his place, was the unceasing importunity of office-seekers. He was wearied and disgusted at the daily visits of men, whom he must treat civilly, while he could not but despise them in heart for their meanness and servility. Offices for themselves or their friends, schemes of personal advancement, how to raise one man, and keep down another, were the frequent topics of long discussions, in which he was bound to hear, if not answer, persons with whom he had little sympathy, and for whom he had less respect. When he was well, such things gave him little trouble ; but, in ill health, they wore upon his spirits, and disturbed his equanimity. Under these circumstances, his family felt that, while his continuance in office could confer on him no increase of honors, its labors were manifestly impairing his health, and wasting hours, which might be more pleasantly, if not more profitably, employed.

June 5th, 1818. "This evening, Samuel Bell spent two hours with me in my chamber. I told him that I had come to the resolution not to be again a candidate for the office I now hold. He said he was sorry to hear it ; that the confidence of the great body of the people was daily increasing in



my administration ; and he hoped I should long continue to be the chief magistrate. I replied that the state of my health could not permit me to hold an office, that required my personal attendance at particular times and places, and whose duties claimed from me such unremitted attention. I told him, I hoped the Republicans would unite on him as their candidate ; though I was sorry to lose his services on the Bench. After much conversation, he said finally, if the Republicans should generally agree to support him, he would consent. I told him that this declaration relieved me from much anxiety. He then said that it was now his turn to make a request, which was that I would consent to be Senator in Congress. I replied that no office pleased me better than that of Governor ; and, in declining that, I declined all other offices."

I may here add, that, at the request of many of his friends, I urged him, at this time, to be a candidate for the Senate. His reply was: "It is well enough to have been once at Washington. There is much to be learned there which can be nowhere else acquired ; but a second term would give me less pleasure and less profit than the same time devoted to my books. As a matter of duty, I have already taken my turn ; as an honor, I do not covet it. You may go if you will, but I would not advise it now. *Law first, and politics afterwards*, is my advice to every young man, who would be either lawyer or politician, in this country." I need hardly add that this sage advice was

lost on me. A seat in Congress is seldom declined by a young man, to whom it comes unsolicited as unexpected.

June 13th, 1818. "A committee informed me that, at a full meeting of the Republicans, I was unanimously nominated as a candidate for re-election as Governor. I answered them that the ill state of my health obliged me to decline the honor, at which they expressed great regret."

June 23d. "The Republicans met in caucus. After nominating Bell for Governor, they balloted for a candidate for Senator. Butler, Livermore, Storer, and I were voted for. I had the highest number; and, at the third ballot, received a majority. This makes it necessary for me to settle the course that it will be proper for me to pursue. The office I do not want; and, if elected, I cannot accept it. But, if I withdraw my name, Parrott will be the most prominent Republican candidate, and as the Federalists will unite with the Republican minority, he cannot in that event be elected. My object is to defeat Butler. I shall, therefore, be silent."

June 24th. "The House balloted for a Senator. The Federalists voted for Jeremiah Smith; the Republicans were divided between Parrott and myself. I had, at the first vote, the highest number, but not a majority. At an after ballot, Parrott was elected; the Federalists voting, as I supposed they would do, for the minority candidate."

Though he had, as he says, remained for a time silent, it was generally known that he had declined the office, or he would undoubtedly have been elected. It

is to be regretted that he was not chosen; as it would have added to his life six years of interesting public service, without injury probably, in the mild climate of Washington, to his health. In a letter, after the adjournment, to Salma Hale, he says, "I sincerely rejoice that I was not elected a Senator to Congress; but I do not regret my being considered a candidate, as it prevented a man less qualified than Parrott from being elected."

June 26th, 1818. "I was so ill that I was obliged, about ten o'clock, to take my bed, and was unable to meet the Council."

27th. "In the morning I was too sick for business. The Council met at my lodgings, in an adjoining chamber. I alternately met with them, and retired and reposed on my bed. Nominated Moses C. Pillsbury for the office of Warden of the States' Prison, and Roger Vose for Chief Justice of the second judicial district. The labors of the day fatigued me; but I was able to drink tea with the boarders, and to sleep tolerably well in the night."

28th. "My health is feeble, and the pain in my limbs severe. Mr. Vose called upon me. He said he was gratified at being nominated as judge. I told him, that, though I had a friendship for him, I had not nominated him on that account, but because I thought the public interest required his services."

29th. "Rose early; debility and loss of appetite great; but all my business is done, and, I hope, as correctly as if my health had been good."

30th. "The Council met me at my lodgings, at five o'clock in the morning. We completed our appointments; and I signed all the commissions. I approved the bill exempting the bodies of debtors from arrest on executions issued from justices of the peace, though it is in some respects very defective. It is a point gained in favor of the liberty of the person; and its defects may be remedied by a future Legislature. The lawyers in the House were unitedly opposed to it. Second and third rate lawyers, as many of these are, make bad legislators. At ten o'clock in the forenoon, at the request of the Legislature, I adjourned the two Houses. In the afternoon rode to Epsom; and the next day to my own house."

Among other acknowledgments of his message to the Legislature, received by the Governor, was the following from Mr. Jefferson, dated June 21st, 1818:

"Thomas Jefferson presents his compliments to Governor Plumer, and his thanks for the copy of his message, received yesterday. It is replete, as usual, with principles of wisdom. Nothing needs correction with all our Legislatures so much as the unsound principles of legislation on which they act generally. The only remedy seems to be in an improved system of education. He is happy in every occasion of saluting Governor Plumer with friendship and respect."

Mr. Madison wrote on the same occasion, August 10th:

“I cannot doubt that the motives to which you have yielded, for discontinuing your public labors, are such as justify your purpose. In anticipation of the epoch of your return to private life, I offer my best wishes for the health and repose necessary for its enjoyments, and for the well chosen pursuits to which you mean to consecrate it ; to which, permit me to add assurances of my high esteem and cordial respects.”

The following is from Mr. Plumer's Diary, under date of July 21st :

“Returned from Portsmouth, where I spent four days on a visit to my daughter. Her disease will, I am convinced, prove fatal. Yet she is in good spirits, and exhibits much patience and fortitude under sufferings which are severe. I visited, and was visited by, a number of the gentlemen of Portsmouth. Among these was Jeremiah Mason. He said that Bell would be elected Governor ; but, that the Superior Court would thereby lose its backbone. He did not think Bell would be able to manage the General Court ; if he, (Mason,) were Governor, he should quarrel with them in a week, they were so impracticable. Nothing, he said, had more surprised him than the influence I had acquired over them, while, at the same time, I preserved my own independence. He said many of the appointments I had made reflected honor on the state, as well as on myself ; that three more men, so well qualified as the present judges, and who would accept the office, could not be found in the state ; and that the late appointment of Vose was equally judicious. He

had not expected that I should abandon public life, when my popularity was increasing, and a re-election depended on myself alone. I replied that the state of my health required the repose of private life ; and that, in peaceable times, like the present, the public had no claim on the service of a man of sixty."

These opinions of Mr. Mason, years afterwards repeated as his deliberate judgment, at a period when he could have no motive to flatter or deceive, were regarded by Governor Plumer as among the best proofs which he could receive, that he had not labored in vain in the public service ; and that while he knew, better than any one else could, that his motives were pure, others saw that his measures were beneficial, and his course of policy liberal and judicious. This was the only reward which he desired,—the deliberate approbation of an enlightened community. He used to say, that he cared little about present popularity, except as it enabled him to act with more effect for present purposes ; in other words, except as it was an instrument of power in his hands for the public good. Ultimate approbation could rest on merit only. In the long run, men would judge him fairly ; in the mean time, nothing was more uncertain, or more worthless, than the censure or applause of the day. First or last, every man considerable enough to be remembered after his death, would be duly appreciated, and dealt with by

the world according to his deserts. This conviction made him indifferent to the censures of the ignorant who mistook him, and of the malicious who purposely misrepresented or maligned him. In a letter to Silas Betton, who wished to be re-appointed as sheriff of Rockingham, he said, "In the various offices I have held, I have sought more to serve, than to please the people; and I trust that when the sod is green over my grave, those who survive me will say that in all cases, I preferred the man of merit to the political partisan. Such, at least, has been my purpose, from which I have never knowingly departed." It was in this calm confidence of ultimate justice, that he had lived down calumny and abuse, and, in his old age, drew around him, in respectful attendance, many who, at an earlier period, had been loud in their disapprobation of his course.

September 21st, 1818. "On the 18th, my daughter died—I was present—without a groan, or a sigh. From the time that I considered her disease incurable, I have not wished her life to be protracted; because it was to her but an increase of suffering; and I am now reconciled to the event."

This was a child most tenderly loved by both parents, and was mourned till the close of their lives. She inherited her father's literary taste and talents to a great degree. Her peculiar sweetness of temper and many endearing traits made her the idol of her

family, and rendered her loss irreparable. She was the dearest and most affectionate of friends to me; our thoughts, our studies, and our feelings were interwoven with each other. If I felt pleasure in any new acquisition, it was because I hoped to share it with her. If I read a new book with delight, that delight was repeated, and redoubled in reading it again to her. I cannot express how much I have lost by her death. Many of my most pleasing recollections are connected with her. The sympathy that subsisted between us was so perfect, that her pleasures were mine, my joys were hers; our griefs and our regrets were common, our sentiments, our opinions, our tastes; what one felt the other reciprocated.

Governor Plumer met the Legislature, for the last time, at the close of his official year, to assist in organizing the two Houses, and to see his successor inducted into office. Before finally retiring from his post, he sent a message, June 2d, 1819, to the Legislature, giving a brief account of his official conduct, and of the principles on which he had administered the government. We quote a few characteristic paragraphs from this message:

“ In making the appointments of the various officers, which the constitution and laws vest in the Executive, I have been frequently embarrassed and perplexed. The greatest imperfection in all governments arises from not having men of



virtue and talents to carry the laws into execution. Laws founded in wisdom and justice require men of knowledge and integrity for their correct and impartial administration. From the nature of human affairs there must be a portion of discretion vested in executive officers ; and this discretionary power will often be abused, by weak men from ignorance, and by bad men from design. Hence my object was to appoint those men to office who were best qualified. To make such a selection was difficult. I was not, in all cases, acquainted with the persons best qualified for places of trust ; and therefore, in some instances, was obliged to act upon the information of others. That information, in general, consisted not of facts, but of *opinions*, and those often formed under the influence of interested motives, the partiality of friendship, personal hostility, slight acquaintance, or the spirit of party ; and of course they often proved incorrect. Recommendations and petitions in favor of candidates for particular offices have frequently been made ; but in many instances it afterwards appeared, that those who subscribed the recommendations did not consider themselves responsible for the character and conduct of those whom they recommended. Indeed, instances have occurred when those who recommended the successful candidates, have been the first to join the disappointed expectants, in censuring the Executive for making such appointments. The candidates for office *themselves*, in too many instances, not satisfied with *PROCURING* recommendations, have personally importuned for office ; but I have found that *office-seekers* were not always the best qualified, that they were usually more anxious for the honors and emoluments of office than to promote the interest of the public, and that men of modest,

unassuming merit ought to be preferred. To my regret, some men whom I considered well qualified, declined office. To increase these embarrassments, a difference of opinion, in a few instances, existed between myself and a majority of the Council, respecting the qualifications of certain individuals for office. When this happened, as it was necessary to fill the vacancy, if the Council declined to agree with me, I thought myself bound to consent to their nomination. In such cases I was considered by the people responsible for appointments, which I should not otherwise have made.

“During the time I was in office, an unusual number of appointments were to be made, including all the judges of the courts of law, those of probate excepted; the sheriffs of four counties; most of the justices of the peace, and nearly all the militia officers of the state.

“In appointing judges, it was my sole object to select men of talents, of legal information, of strict integrity, and such as I deemed best qualified for those important trusts. And with a view to exclude, as far as practicable, the *spirit of party* from the temple of justice, and to inspire a general confidence in the courts of law, in which every citizen has a deep interest, I appointed men of different political principles.

“As offices are created for the benefit of the people, and not for the honor and emolument of the officers, and as their unnecessary increase has a tendency to impair the responsibility of the officer, and render the office less respectable, it has been my object not to increase the number of justices of peace beyond the limits which the public interest required.

“As some towns appeared to have a greater number of justices than was either necessary or useful, soon after I came

into office I declined renewing some of their commissions ; but reflection and experience convinced me that this course would be injurious, as the commissions of some of the justices who were best qualified expired first, and if not renewed, the community would be deprived of their services. On maturely considering the subject, I came to the resolution to renew the commissions of all justices whose term expired, except those who, by infirmity of age or mental derangement, were incapable of performing the duties of the office, those who encouraged and promoted litigation, were intemperate or guilty of gross immorality ; sheriffs, and recently their deputies ; persons who had removed into a town in which there were before a sufficient number ; and those the certificate of whose oaths of office had not, during the preceding five years, been returned to the Secretary's office.

“ The Constitution seems to imply that, if the judges of the Superior Court were justices of the peace, they should be *throughout the state*, and I accordingly appointed them such. But during the last three years I declined appointing any others of that grade, except the Chief Justices of the Courts of Common Pleas, and renewing those whose commissions expired ; because I could discover but little duty for them to perform, and the number already in office was sufficient for that purpose.

“ In the appointment of *new* justices of the peace, I made it a rule not to appoint in any town *more* than one to three hundred inhabitants, except where peculiar circumstances rendered it necessary. Though this rule leaves the number greater than what is requisite, I considered that reform, to be permanent, must be gradual ; I was, therefore, content

with diminishing an evil which I could not wholly remove. On the first of June, 1816, the number of justices of the peace in the state was nine hundred and eighty-four ; it is now reduced to eight hundred and three.

“ As the Constitution excludes a person holding the office of judge, attorney-general, or sheriff from a seat in the Council, there appeared to me an impropriety in appointing Councillors to either of those offices. Such an appointment would deprive the state of a member of the Executive board, or subject the people to the expense of new meetings to elect another, and the state to the charge of an extra session of the Legislature to receive and count the votes. On that account, and, as far as I was able, to preserve the independence of the Council, I have uniformly declined appointing a Councillor to any office which, if accepted, would have excluded him from the board.

“ Upon the subject of granting pardons to persons convicted of public offences, I never considered myself at liberty to revise, or question the propriety of the opinion of the court which rendered the judgment. The courts of law are the only tribunals competent to pronounce upon the innocence or guilt of the accused ; and their decision ought to be conclusive. As our currency consists principally of *paper bills*, as much of our property depends upon the validity of written instruments, and as forgery is a crime which necessarily includes much turpitude of heart, and is attended with serious evils to society, I have uniformly declined pardoning any of that class of offenders. I have granted pardons but in a few cases ; and those only to convicts who were insane, or approached a state of idiocy ; and to those who, being impris-

oned for theft, were, before their term had expired, visited with sickness, which, for want of free air and better accommodations, it appeared probable would terminate in death—a punishment which the law did not intend to inflict.

“By the law of the 27th of June last, the concerns of the State Prison were committed to the Governor and Council, and provision made that they should have a suitable compensation for those additional services. In relation to *myself*, I request that you would make no grant to me on that account. I am satisfied with the reward I have received ; it is adequate to the services I have rendered. I never accepted office for the sake of its emoluments. The great object of my official labors has been to promote the interest and prosperity of the state, not those of any religious sect or political party. I have, whenever they came in collision, preferred the public to my private interest ; and been more anxious to *serve* than to *please* the people. But how far my efforts have succeeded, it is for others to decide. I am satisfied with the honors of office, without being disgusted with its duties ; and having rendered this account of my administration, I retire to private life, to share, in common with my fellow-citizens, the effects, prosperous or adverse, of my official measures.

June 2, 1819.

“WILLIAM PLUMER.”

The frequent use of the veto power, fourteen times in four years, grew out of his deep sense of personal responsibility. That a bill had passed both Houses of the Legislature by a unanimous vote, was, with him, no reason why he, as Governor, should, by signing it, make it a law. His duty was, if it did not approve

itself to his own judgment as right, to return it with his objections. It was for him no sufficient reason that others thought it right. He must act on his own responsibility, as they had done on theirs. There was, therefore, in these veto messages, no arrogant assumption of superiority, on the one hand, as if he knew more than they; and, on the other, no affected humility, in the exercise of an acknowledged right, or rather in the discharge of a duty which required no apology for its performance.

June 4th, 1819. "I attended the Council, and administered the oath to the two remaining Councillors. This is my last official act. Samuel Bell is elected my successor by a majority of about sixteen hundred votes."

June 5th. "I parted with the Governor, and the gentlemen with whom I had been for some time associated, with regret. It required an effort to suppress my feelings, and preserve the natural tone of my voice."

His friends had requested leave to form an escort, to accompany him to his home; but he declined this honor, as undesirable to him while in office, and improper now that he was a private citizen. He could not, however, prevent the leading men of both political parties from accompanying him a short distance out of the town. On riding out of sight of these kind friends, from whom he did not part without strong emotions, he congratulated himself on his

final escape from the cares and anxieties of public life, and adverted with just satisfaction to the general good will and respect with which he was now regarded, even by those who had, at first, treated him with rudeness and contumely. He claimed no other merit than that of good intentions; and desired, he said, no other reward than the consciousness, which he then felt, of having done, in all cases, what, at the time, he regarded as his duty. In this quiet ride, on that beautiful June morning, along the plain, and through the dark pines which border the Merrimack, he dwelt, with glowing enthusiasm, on the peaceful retreat, where, in the society of his friends, in the study of his books, and the use of his pen, he hoped to pass the evening of his life, undisturbed by the storms which had darkened its morning and mid-day course. As I sat silent at his side, in deep sympathy with his feelings, I had never seen him more buoyant in thought, or happier in his anticipations of the future. We reached home to a late dinner, and amidst the smiles and caresses of his wife and children, the veteran soldier felt that, after more than thirty years' service, he had received an honorable discharge, and might now hang up his arms, and repose in peace, no longer to be roused by the daily *reveille*, nor summoned needlessly to the onset at the call of party leaders. Life to him was indeed thenceforth to be a march, with ported arms, along the

region which leads silently downwards through the valley of the shadow of death,—awful to many, but which had in it no terrors for him.

“I might,” he writes, (June 7th,) “if I had wished it, have continued longer in office ; but its cares and anxieties would have worn down and enfeebled my mental powers, and, without my perceiving their decay, my measures would have become more timid, less vigorous, less useful ; and my reputation, as a public man, would have declined. I have, therefore, seasonably exchanged the duties of a sentinel for those of a private citizen.”

From the retreat, so early selected and so long cherished, he was only once, and that for a single day, afterwards withdrawn. In 1820, he was chosen one of the Electors of President and Vice President of the United States. His name had been placed at the head of the list, without his being consulted as to whether he would serve, or how he would vote. It was on the occasion of Mr. Monroe's second election. Governor Plumer did not regard himself in this, more than in other acts of his life, as the tool of a party, or the mere exponent of other men's opinions. By the provisions of the Constitution, the people choose the Electors; and it is the duty of those Electors to choose the President. In the exercise of this duty, he voted for John Quincy Adams, instead of James Monroe, who received every other electoral



vote in the Union. This single vote against Monroe (for it was regarded chiefly in that light) excited much wonder, and some censure, at the time. It, however, created no surprise in those who knew him, as it was the natural result of his general rule of independent action, combined with his avowed opinions respecting some of the leading measures of Mr. Monroe's administration. His first legislative act, thirty-five years before, had been the signing of a protest, which no one else signed, against an act, which the court soon after pronounced unconstitutional; and now, at the close of his public life, his last official act was the voting, as an Elector, for a man, for whom no one else then voted, but who was at the next election chosen President. He thought Mr. Monroe's capacity by no means equal to the place. "We mistake," he said, "if we suppose that any but the ablest men are fit for the highest place. The government of weak men must always be disastrous. *'Wo to thee, O land, when thy king is a child.'*" He was influenced in part, perhaps, by a desire to draw attention to his friend Adams, whom he thus first nominated for the Presidency; but more by his disapprobation of what he regarded as the wasteful extravagance of the public expenditure, during Monroe's first term of service; which, instead of paying the public debt, had compelled a resort to loans in a time of peace. "I see," he said, in a letter of an

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earlier date, to Salma Hale, "the same spirit of profusion and waste in granting the public money here, as in England. The expense of our army and navy, in proportion to numbers, exceeds that of any nation on the earth. The expense of our Legislature has no parallel in any other country; and our pension system seems intended as a bounty to encourage idleness and want of economy."

This dissatisfaction with the course of public events was by no means confined to Governor Plumer. I was in Congress at the time, and saw much of it in that body. I received many congratulations on this vote of my father, from such men as Randolph, Macon, and other Republicans of the old school. Not that they liked Adams, (Randolph assailed him with the fury of hereditary hate); but they disliked Monroe, whom they regarded as having adopted, chiefly under the influence of Calhoun, some of the worst heresies of the old Federal party. Randolph said in the House, with his usual felicity of sarcastic expression: "They talk of the unanimity of his re-election. Yes, sir; but it is the unanimity of indifference, and *not* of approbation. Four years hence, he will go out, with equal unanimity; and the feeling will then be, not indifference, but contempt." This bitter prophecy was, in some measure, verified, by the almost total oblivion into which Mr. Monroe fell, amidst the din of the contest which preceded and followed the

election of his successor. Forgotten even before he left the White House, he was remembered afterwards, for a moment only, as an humble suppliant for the bounty of Congress, on one of whose most important acts he had, just before, put his veto.

## CHAPTER XIII.

### OLD AGE.

THE remaining thirty years of Mr. Plumer's life furnish few incidents for biography. They were passed in study rather than in action. After a few weeks of relaxation, he began to cast about him for some new employment. He thought at first of resuming his historical labors; but the reasons which had formerly seemed conclusive against the further prosecution of that design, were now strengthened by the consideration of his feeble health and his advanced age. He was unwilling, however, to leave wholly unused the materials collected, and the stores of knowledge which he had accumulated. Abandoning, therefore, the idea of writing a History of the United States, he determined to devote his leisure to the composition of a work which he entitled "Sketches of American Biography."

While prosecuting these inquiries, and as a relaxation from them, he wrote and published in the newspapers, a series of Essays, under the signature of *Cincinnatus*, which had a wide circulation, and attracted much attention. They amounted in all to

one hundred and eighty-six numbers, furnishing matter sufficient for two or three volumes, and extending, in point of time, from May 10th, 1820, to August 6th, 1829. Among the subjects treated of in these Essays, were the Freedom of the Press, Hard Times, Speculation, Intemperance, Industry and Idleness, Virtue and Happiness, Gaming, Lotteries, Extravagance in Dress, Furniture and Living, Insanity, Education, Agriculture, Roads, Government, Commerce, Manufactures, Banks, Paupers, Slavery, Taxation, Public Debts, Wars, the Army, the Navy, the Militia, Pensions, Schools and Colleges, the Professions of Law, Medicine, and Divinity. In answer to the inquiries which a reader naturally makes as to an anonymous writer, he says, in his first number : "My name can neither add to, nor detract from, the authority of my writings. My politics are Republican, and my religion liberal. My motive is the public good." He was not, however, studious of concealment. His style, indeed, and his tone of thought and feeling, were so peculiarly his own, that he seldom published any thing, which was not at once recognized by those who took an interest in his productions. He gave, on this occasion, as the reason for his mode of publication, that a hundred read a newspaper for one who examines either large pamphlets, or ponderous volumes ; and that, his object being to reach the mass of the people, and not the learned

few, he had sought his audience where alone he was sure to find it. His main purpose was indeed to impart useful information and practical wisdom,—to recommend prudence, economy, integrity, and the social virtues, to the great mass of the people, in all conditions and occupations of life. Like Franklin, in writings having the same object, he often descends, in these essays, to minute details and homely objects, certain that he could not be ill employed in the pursuit of useful knowledge, or too precise in its communication. Some of the essays, especially those on education, agriculture, and government, are full and elaborate, and may almost aspire to the dignity of finished treatises on these subjects. Others, less extended, contain, in many cases, comprehensive surveys of their subjects, and abound in acute remarks, in plain statements of important facts, and in well considered opinions, clearly and strongly expressed. The essays on agriculture embrace nearly the whole circle of our New England methods, and are equal, if not superior, to any thing since written on the subject, except so far as the application of chemistry to agriculture, then hardly made among us, has enabled later writers to give a reason, in some cases, for practices whose utility he could support only by an appeal to experience. The essays on government contain an account of our American forms of government, state and national, and, to a considerable extent,

a history of their administration, with remarks on the errors and abuses to which they are exposed, and suggestions for their correction and improvement. The essays on education are practical in their character, and sagacious in their views and suggestions.

The plan of his biographical work, to which he now devoted himself, was to give, not in the form of a dictionary, but chronologically arranged according to the date of each man's death, a sketch of distinguished Americans, in every department of life and action, from the first settlement of the country to his own time. It was not his object to supersede (if that could have been done) the separate lives of eminent men which we already possess, but to give, in a clear and succinct narrative, the facts and dates relating to all persons considerable enough to fill a place, however humble, in the history of the country. A reader, for example, finds, in some work he is examining, mention made, perhaps incidentally, of an individual respecting whom he wishes to know more than is there told. He turns to the *Sketches*; and he finds, in a few pages, unincumbered with useless details, the facts and dates of his life, all, in short, that is known respecting him, chronologically arranged, with a brief sketch of character, drawn up, as he said, "without eulogy on the one hand, or detraction on the other." In such a work, some men's lives would furnish matter for forty or fifty

pages; others, for a few lines only. No date, which could be settled, was to be left unascertained, and no fact bearing on the history of the United States, unrecorded. The work was to embrace the whole country within the limits of the Union, and the entire period from its first discovery to the time of publication. To every reader of biography, or student in history, such a work, if adequately executed, would be an invaluable assistant,—a methodical abstract and compendium of American history and biography.

As early as 1808, he had sketched, for his own amusement, the characters of some public men with whom he was personally acquainted; but it was not till 1819, that he began to devote his leisure from other occupations to preparing for the work here described. He began by collecting materials from all quarters, writing letters to the friends of deceased public men, and examining and making references to all the books, pamphlets, public documents, newspapers, and other sources of information within his reach. His own collection of such materials was probably the largest in the country. The earliest of these sketches, which I find among his papers, bears date November 28th, 1827; the latest, April 24th, 1843. Their whole number is one thousand nine hundred and fifty-two. They would form, if published, seven or eight closely printed octavo



volumes. He had selected the names of many hundred individuals more, respecting whom he had made references and gathered materials, but had made no further progress in their biographies. These references, and this mass of materials, embrace the whole circuit of American history and biography; and it would have required many years of industrious application to fill up even their modest outlines. It was, indeed, the labor of a life, and should have been commenced only in the first vigor of manhood. With his industry and perseverance, it would, if so begun, have ended in the production of a work of comprehensive information and enduring value. As it is, it wants the hand of some competent compiler to put it into shape, and to complete the original design. To the author it was, for years, an object of pleasing contemplation, and of unexhausted and inexhaustible occupation. With this work before him, time never hung heavy on his hands. The calls of company, the society of his friends, the circle of his domestic avocations, found him ever ready for the duty or the business of the day, whatever that might be; but equally ready to turn from these to his books and his pen, for the piling up, month after month, and year after year, of these memorials of the past, and mementos for the future. Happy in his employment, he viewed the swelling heap with more

than the miser's pleasure in his hoarded gold, and looked forward to its completion as the crowning achievement of his life.

His own approach to old age having drawn his attention to the subject, he published, (July 18th, 1823,) a short essay on Longevity, in which he gives many interesting statements respecting the causes of long life, the effects of climate, occupation, and profession, labor and exercise, temperance in meats and drinks, the habit of early or late rising, temper, country or city residence, and other conditions connected with health and longevity. He continued his inquiries on this subject, and had collected, before his death, the names and some account of about six hundred persons, who had reached the age of ninety years and upwards. A portion of them were published by Dr. J. E. Worcester, in the "Memoirs of the American Academy."

Mr. Plumer also wrote, February, 1824, and published, in the New Hampshire Historical Society's Collections, "Remarks on the Authenticity of the Wheelwright Deed," which had become a subject of dispute among New England antiquaries. On this subject, he wrote, (March 19th, 1824,) to John Farmer:

"I still think there is more evidence of its authenticity than that it was forged. Objections may be stated to ancient documents, which it is impossible, after the lapse of two cen-

turies, to obviate, and yet the papers may be genuine. The Declaration of Independence purports to have been signed at Philadelphia on the 4th of July, 1776, by those who were then delegates in Congress. Yet it bears the names of several persons, who, as appears by the Journals, were not, till many months after, members of Congress; and a recurrence to the records of the states to which these persons belonged will show that they were, at that time, in office at home, and not present in Philadelphia. Suppose, two centuries hence, it should be said that the names so affixed were forged, it might, at that distant time, be difficult to disprove the allegation. The Journals of Congress do not contain the information necessary to explain the facts; but many who are now living know that, for some time after the 4th of July, new members of Congress were required, on taking their seats, to sign the Declaration, though it had been issued previous to their appointment. This is a fact which I do not recollect to have seen stated in any history of that period. Ancient deeds so far prove themselves, that they throw the burden of proof on those who deny them. There are objections to this Indian deed, which cannot, perhaps, be fully explained; but I think the evidence, on the whole, preponderates in favor of its authenticity."

These remarks led afterwards to an elaborate examination of the question by Savage, in his first edition of Winthrop's Journal. On reading this article, Mr. Plumer said, in his Journal, (Aug. 16th, 1825:)

"His observations upon my remarks on the Indian deed to Wheelwright are written with more asperity than the occasion

required. Some of his arguments are more specious than substantial, and may be easily refuted. At this distance from the date, it is difficult to settle conclusively the question whether the deed is genuine or not. Much may be said on both sides ; but I have neither time nor inclination further to investigate the subject."

Some of Mr. Savage's arguments are certainly very strong, and seem not easy to be refuted ; yet it is said that certain documents, recently discovered, go to establish the authenticity of that much disputed deed. I have not seen them.

To John Q. Adams, Mr. Plumer writes, (February 13th, 1829 :)

"I have long been convinced that the great secret of human happiness is not to suffer our energies to stagnate. Our pleasure consists in action more than in rest. I never enjoyed life better than I now do, in a state of retirement from the world. I feel a deep interest in my literary undertakings ; and if they should not prove useful to others, they will have served at least to smooth for me the passage down the vale of declining years. It would, indeed, be a gratification, if I could live to complete and publish the work ; but this is not probable."

It would be easy to multiply from his papers evidences of the unwearied perseverance with which, under the weight of increasing years, Mr. Plumer

continued to pursue his literary labors. The last Life which he attempted, and which, if completed, would have been one of the most elaborate of the series, was that of Thomas Jefferson. His own personal recollections furnished him with many interesting facts and traits of character; and he had gone carefully over the wide range of his books, pamphlets, newspapers and public documents, to collect materials for the intended memoir. But the labor of preparation seems to have well-nigh exhausted whatever of strength remained to him for the task. After writing eight or ten pages of the biography, he dropped the pen, (April 24th, 1843,) never to be again resumed in the same service. He continued, indeed, as if by the force of a habit too firmly fixed to be easily discontinued, to take minutes of his reading, and to make references, as late as November 28th, 1848, and perhaps later; but he attempted no more Sketches of American Biography.

In looking back on the long years of labor which he devoted to this work, we cannot but regret that, by beginning so late in life, and by spreading himself over so wide a surface, he failed to complete what, within narrower limits and with longer time, would have been a very useful work. The articles, too, are most of them first sketches, rather than finished papers. The toil of revision, addition, and correction, remains to be performed. In their present state, they are a

vast accumulation of interesting facts in American history and biography; but they lack the harmony and artistical perfectness which longer time and greater elaboration could alone give them, and which the author's age, when he commenced the undertaking, left little reason to hope that he could live to supply. Whether, under such circumstances, any portion of these writings is in a condition to see the light, is a question reserved for farther consideration after the present memoir is completed. In the author's will, written nearly thirteen years before his death, he provided, on the supposition that the work would be finished by him in his lifetime, for its publication after his death; but, at a later period, he expressed doubts whether it should, in its then imperfect state, be given to the press. That the work was never completed, though a loss to the public, was no injury, perhaps, to its author,—none, at least, to his personal comfort and enjoyment. "Happy," it has been well said, "is the man who has a '*magnum opus*' on hand! Be it an '*Excursion*' by Wordsworth, or Southey's '*Portugal*,' or a Neandrine '*Church History*'—to the fond projector there is no end of congenial occupation; and, provided he never completes it, there will be no breach in the blissful illusion." This is surely a juster and more consoling view of the concluding labors of an author's life, than that taken by De Quincey respecting a

projected work of his, which he regards as "a memorial to his children of hopes defeated, of baffled efforts, of materials uselessly accumulated, of foundations laid that were never to support a superstructure, of the grief and ruin of the architect." In the present case, there was to the architect no grief and no ruin; but, on the contrary, a steady succession of pleasing occupations, of daily enjoyment, and cheerful anticipations of usefulness to others, when he should himself cease to act or to enjoy. Occupation in the present, and hope for the future, are among the essential elements of human happiness. With both of these, his declining years were abundantly furnished in the quiet seclusion of the domestic circle, by the gentle companionship of his books, and the assiduous but unexhausting labors of the pen.

It may be here mentioned that his literary pursuits brought him into connexion with many learned societies; and that among others to which he belonged were the Massachusetts Historical Society, the Statistical Association, the Academy of Languages and Belles Lettres, the American Antiquarian Society, and the Danish Royal Society of Northern Antiquities. His last two journeys to Concord were to assist at the organization, in 1823, of the New Hampshire Historical Society, in which he took much interest, and of which he was the first President. They requested him to deliver the first annual

address before the society, which he declined, on the ground of feeble health. He gave to the society some two or three hundred volumes, principally the earlier and more valuable of his state papers.

A few further extracts, containing the expression of opinions, or notices of facts, will lead us, by a different route, over the same period to the close of his Journals and his correspondence. January 29th, 1820, he writes to Daniel D. Tompkins, Vice President of the United States:

“On the subject of the Missouri restriction, I indulge the fond hope that the friends of liberty will prevail, and that slavery will be kept within its present limits. On this subject I have read and reflected much ; and have never doubted the right, or the policy of admitting new states, subject to the condition that they shall not enslave their fellow men. Nor have I any doubt that the power to hold slaves will eventually prove a curse, and not a blessing, to the state to which it may be granted. It is an immutable principle of the laws of nature that those who violate those laws do, by that very violation, lay a foundation for their own punishment, which, sooner or later, must and will be inflicted. The strength of any state must be impaired, and its danger from insurrections increased, in proportion as slaves increase within its limits. Slavery is not only a reproach to our character as a nation, but its extension to new states adds deeply to that reproach and disgrace. It increases, too, the existing inequality, in the apportionment of representatives and electors, in violation of the principles of right and justice ; and will, I fear, give



rise, in its consequences, to a new state of parties, marked by geographical lines, described as slaveholding and non-slaveholding states,—a condition of parties more dangerous to our system of government, than any that has yet existed among us.”

On this subject of slavery, he entered warmly into the feeling, then universal in the free states, against its further extension; and predicted the overthrow of the Union from the moment that the slave states should acquire an acknowledged and uncontrollable preponderance in the government of the Union. He wrote me, (February 20th, 1820:)

“The Missouri question has lost, in my mind, none of its interest or importance. I could not consent to any *compromise*, which the slave-holders may offer. I consider the extension of slavery as a crime in those who permit it,—an evil fatal to the interests of the free states. If it prevails, it will, I fear, eventually produce the calamity, which I have so long deprecated,—a dismemberment of the states. If, to obtain this extension, its advocates in the Senate can be guilty of such an outrage upon all parliamentary proceedings, as to couple in one bill Missouri with Maine, what may we not expect from them, when, by their slave representation, they shall have gained the ascendancy in the halls of Congress? In wealth and in physical force, the free states will maintain a decided superiority; but, in legislation, the slave states will rule. The great interests of the free states are agriculture, commerce, and manufactures; but, in the slave states, agricul-

ture constitutes their principal employment,—not an agriculture like ours, but the planting interests of cotton, tobacco, rice, and sugar. It will be, therefore, natural for those states, when all power is vested in their hands, to neglect to provide for the protection and encouragement of commerce and manufactures. A series of measures may be expected to follow, fatal to the integrity of the Union.”

To Jonathan O. Moseley, he writes, (March 3d, 1820:)

“On the question of admitting new states formed from without the limits of the old thirteen, I have never had a doubt either of the constitutionality or the expediency of requiring such states to stipulate that they will not hold slaves, as a condition requisite for their admission. I hope you will agree to no compromise on this subject with the slave-holding states. If your House will act with firmness, you will yet save the nation, preserve the rights of the free states, and eventually the new states of the west, though against their will, from a curse more grievous to them than war and pestilence united. The longer I have considered the subject, the more important it becomes in my view.”

The following passages are extracted from his Diary:

June 18, 1821. “Of foreigners, we have already in our country more than enough. They, in general, consist of the poor, the discontented, the restless and unquiet, who diminish rather than increase our strength and our wealth. Their habits

and their opinions are unfavorable to our government and our institutions. A slower but sounder growth is more to be desired."

Dec. 14th, 1821. "I have read the President's Message. As a writer, he is vastly below some of his predecessors ; and, in point of talents, at a still greater distance from them. There is no one act of my official life on which I reflect with more satisfaction than that of withholding from him my vote as an Elector."

Dec. 15th, 1823. "The President's Message is the best communication he has ever made to Congress. The sentiments are manly and independent. As an individual, I am proud of such language from the Chief Magistrate of the nation to its Legislature. Though the Holy Alliance—the despots of Europe—may consider it made in defiance of their claims and conduct, and be irritated by it, we have nothing to fear from them. They have enough to do, in their own kingdoms, to keep their own people in slavery ; and however they may wish the destruction of our free government, they understand too well their own position, and ours, to make war on this country."

This was the remarkable message, in which the doctrine was first advanced that no European power should, in future, be allowed to establish a colony in America. It is now understood that the tone of this message, so bold and energetic, if not its very language, was that of John Quincy Adams, then Secretary of State, rather than of President Monroe.

Mr. Plumer entered warmly into the support of

his friend Adams, who had been elected President in 1824, and was met, from the beginning, by a most violent and envenomed opposition. Among his opponents in this State was Levi Woodbury, who, elected as an Adams man, very soon took his stand in the Jackson ranks, and became, ultimately, a prominent leader in the party. Of the kind of opposition which Adams had to encounter, a sample appears in the following extract from one of Woodbury's letters to Mr. Plumer, (April 23d, 1826:)

"It has been a subject of mortification to Mr. Adams's friends, and must have astonished you, I think, that '*a billiard table, \$50.00,*' '*billiard balls, \$6.00,*' '*chess men, \$33.00,*' etc., etc., should compose a part of the articles purchased by him, with the public fund, and should go down to our posterity as a part of the furniture for the *President's use*, in this virtuous stage of our country's growth and history."

The virtuous indignation of the worthy Senator at this misapplication of the public funds, seems not to have been felt so strongly by his correspondent, who wrote in reply, (May 8th, 1826:)

"As to the President's purchasing a billiard table, balls, and chess men, out of the money granted him to furnish his house, I consider it a trivial object, and of little importance to the public. If nothing more substantial is alleged against the President, his opponents ought to feel more '*mortification*' than his friends. A predisposition to find fault too

often induces men to *strain at a gnat and swallow a camel*. There is useless expenditure enough of the public money ; but, in this case, if the House or Senate charge the President with waste or extravagance, he may well reply to the accuser, *Physician, heal thyself*. I am glad your session is to close in a few days ; for I think the nation and its treasury will be safer in the recess. The present session has been distinguished for debating *much* and doing *little* ; the mountain has been in labor, and produced a mouse."

The following is from a letter of John Quincy Adams, dated April 24th, 1827 :

" Your approbation of the leading measures of the present administration, if not more than a counterbalance to all the obloquy with which it is visited, is among the most cheering incidents which sustain me in the discharge of my duties. That I endeavor to discharge them according to the best of my ability, is the sum of all the defence I can make against those who think they have an interest in passing censure upon me. I confidently rely upon the good sense of the people to correct the mischief which results from the present state of things, though I cannot flatter myself that it will be remedied within the term of my public service."

June 17th, 1827, to Levi Woodbury, who had expressed the hope "that there was no such radical difference between them in politics as to alienate old friends," Mr. Plumer wrote :

“Though we differ in opinion on some principles and measures, which I consider of vital importance to the interests of our common country, that difference will never, I trust, alienate me from you. I have, through a long life, enjoyed the satisfaction of preserving my friendship and attachment to men whose religious and political opinions have been opposed to mine ; and as long as I think a man preserves his integrity, his opinions will not impair my confidence, or diminish my friendship for him.”

From the Diary for July 4th, 1828, we quote the following entry :

“I presided at a public dinner, in Epping, where more than a hundred gentlemen from this and the adjacent towns celebrated the anniversary of our independence. I bore the fatigues of the day, and performed my duty with more ease than I expected. We parted before the day closed in good humor and fine spirits.”

To Samuel Bell Mr. Plumer wrote, (December 9th, 1828 :)

“I consider the late election of President [that of Jackson] one of the most unfortunate events that ever happened in this country. A man who, I think, has not a single qualification for the office has triumphed over one pre-eminently well qualified, and that by a great majority. A mania has seized the public mind ; the people have been deceived and infatuated. Is not this strong evidence that our government is in danger of ter-

minating, like others that have preceded us, in monarchy, or despotism? Still we ought not to despair of the republic. 'It can never be too late to own a conqueror, and sue for chains.'"

Mr. Plumer, having been nominated as an Elector of President and Vice-President, on the anti-masonic ticket, declined, October 26th, 1832, in favor of the National Republican candidates, stating, at the same time, that he was an anti-mason, and had always been one, on the ground of opposition to all secret societies, whatever might be their objects.

In reply to an invitation to attend the celebration of the second centennial anniversary of the settlement of Newbury, he wrote, (May 16th, 1835:)

"Newburyport is the place of my nativity. With the poet, I can truly say, 'Scenes of my youth! once you were dear to me!' Not once only; but still do the recollections of Newburyport afford me real pleasure. In youth, we form attachments to the places where we were born, and where we have spent our juvenile years. In manhood, the reflecting mind extends those attachments to other places, and finally to the whole country. These attachments, thus extended, constitute that noble passion—love of country. If I live to the 25th of next month, I shall then be seventy-six years of age. It has never been my lot to enjoy, at any time, a high state of health. During the last three years, it has been so much impaired, that I have hardly ridden five

miles in a day. Though it would afford me much pleasure to attend your celebration, the want of health obliges me to decline the honor."

He had now a new source of interest, pleasure and amusement, in the society of his grand-children, of whom he was very fond, and who visited him daily, while they were at home, and corresponded with him when they were absent at school. Their letters, however imperfect, afforded him great pleasure; and he never failed to answer them, giving them the same kind admonitions and wise counsels which he had, years before, lavished on their fathers.

The last letter which he wrote, or rather signed, (for I was his amanuensis on this occasion,) was in answer to an invitation to attend the meeting of the Sons of New Hampshire, in Boston, in November, 1849:

"EPPING, November 3d, 1849.

"GENTLEMEN,—I have received your invitation to attend the festival of the Sons of New Hampshire, to be holden at Boston, on the seventh instant. It would give me great pleasure, if the state of my health would permit, to be with you on that occasion. But the infirmities of age press heavily upon me; the penalty, which few escape, who much outlive the *threescore years and ten*, fixed by the Psalmist as the ordinary period of human life. Even the *fourscore years*, which he pronounced to be labor and sorrow to the few by whom they are attained, I have not only reached, but have left them, long



since, behind me in my progress of life. Age, then, and its consequent debility, must be my excuse for not attending the meeting, to which you invite me. I do not the less sympathize with you in the objects of that meeting. Born in Massachusetts, I feel for the old Bay State the veneration of a true son for a worthy parent; and it is among your best claims on my regard, that you, gentlemen, and those for whom on this occasion you act, have, in various ways, and in many walks of life, done such high honor, and rendered such true service, to the State of your adoption, and of my nativity. But though born in Massachusetts, I have been for more than eighty years an inhabitant of New Hampshire; and you may well believe that I cherish for her the respect to which her many virtues entitle her, and feel, far more strongly than I can express, the deep gratitude which her favors, shown to me in years now long departed, have written on my heart. For her hardy, virtuous, and intelligent sons, whether remaining in their native homes, or seeking fame and fortune in other regions, I can indulge no better wish, than that they may prove their true descent from a noble stem, by conduct worthy of their birth and nurture in the Granite State.

“I remain, gentlemen, with great respect,

“Your obedient servant,

“WILLIAM PLUMER.”

“To the Committee of Invitation.”

In introducing this letter, the President of the meeting, Mr. Webster, said :

“Governor Plumer is a man of learning and of talent. He has performed important service in the Congress of the United

States. He has been many years Governor of the State of New Hampshire. He has lived a life of study and attainment, and, I suppose, is, among the men now living, one of the best informed in the matters pertaining to the history of his country. He is now more than ninety years of age. He expresses the pleasure he should feel to be here, if his advanced life would permit. Gentlemen, I propose the health of Governor Plumer of New Hampshire, the oldest living member of the Congress of the United States."

This speech of Mr. Webster was received with great applause, and the toast drunk with hearty and long continued cheering. This warm reception of his name, after a retirement of more than thirty years from the public sight, by so distinguished an assembly of the sons of New Hampshire, the older among them contemporaries of his manhood, and most of the others, sons and grandsons of his former friends and opponents in public life—gave him great pleasure, when reported to him by me, as it seemed to indicate, to some extent at least, the estimate which would ultimately be formed by the public judgment of his life and character,—a verdict rendered, with the impartiality of a succeeding generation, on the transactions of the past.

Many indications of his declining health have been given in the preceding extracts; many more are to be found in his letters and journal. He was in the habit of noting down, chiefly on his birthday, or at

the close of the year, the changes which time and disease had made, and were making, in his powers both of body and of mind. These he was himself the first to perceive; and he has recorded them, not in a spirit of querulous discontent, but with calm resignation to the order of nature, and a ready acquiescence in the necessary course of inevitable events. A few extracts of a more personal character will bring us to the period when our record must close.

June 25th, 1820. "It is more than a year since I retired from the government of the state to private life. I never spent a year of greater ease and happiness. I have had too much of office and public life to wish for more. Though not wealthy, I have property enough to supply my reasonable wants, and I have no inclination to acquire more. I seldom neglect exercise for a single day. It consists principally in superintending my farm. My sleep is sound and refreshing, and I preserve the habit of early rising. My diet is regular, simple and plain. My thirst for information is strong, and the only thing I regret, is the shortness of time."

July 10th, 1820. "Reading, study, and writing afford me the purest pleasure and the highest satisfaction which I enjoy. It exceeds the pleasures and the enjoyments of the prime of life. I pity the man of threescore who cannot read with ardor. His life is a barren wilderness. In politics I am not bound by the shackles of party, nor in religion by the chains of sectarianism; truth alone is the object of my pursuit. Every subject I consider, every book I read, appears different

from what it formerly did. As my mind is independent, and my circumstances easy, I give free scope to my inquiries. If I discover an error, which I have long cherished, I relinquish it with pleasure, nay, even with pride ; but I do not change my opinions on important subjects without mature and deliberate consideration."

June 25th, 1821. "I am now sixty-two years of age. I feel the effect of age on my feeble constitution, though I bear it better than I expected. The period of life to which I have arrived has a natural tendency to limit the objects of my attention, and to make me reflect on approaching dissolution, which I often do, calmly, and without fear. The events of the past, books of history, science, literature, and morals, afford me more information and greater pleasure than passing events, and the politics of the day."

June 25th, 1822. "I have passed my climacterical year. At this period of life, it is natural to expect that every year will render me more infirm. In some constitutions, decay commences before sixty-three, in others later. I perceive no particular change in mine. My mental powers have been as sound and vigorous as they were the preceding year."

December 31st, 1826. "As I advance in years, I more sensibly feel the importance of forming correct habits in early life. I now receive the benefit of two habits which I contracted when very young ; one is that of industry, the other, that of waiting on myself. My industry, instead of decreasing, as I descend the vale of years, is rather increased. I rise in the morning, at all seasons, before the sun ; and, in the winter, bring in my wood, and kindle my fire myself. I feed my hogs and poultry, and visit my barn, in winter, twice a day."

This habit of feeding his swine was an early and inveterate one. On one occasion, while he was Governor, a committee from Portsmouth, who called upon him on business, found him with his basket of corn in his hand, feeding his pigs. These city visitors were at first a little disconcerted by the homely occupation of their Chief Magistrate ; but he entered, at once, into conversation with them on the merits of the various breeds of swine, and enlarged on their habits and their attractions, with a relish and good humor, and a knowledge of the subject, which could hardly have been surpassed by that "prince of men," as Homer calls him, "the divine swine-herd," Eumæus himself. This incident might remind the classic reader of the Samnite deputies, who, when sent on a solemn embassy to Marius Curius Dentatus, found the Roman Consul at his Sabine farm, sitting by the fire, with a wooden platter beside him, roasting turnips in the ashes for his dinner. A somewhat similar incident, nearer home, and equally characteristic of the man and of the times, was that with which Lafayette used to amuse the French court, when he described his call on President Weare, of New Hampshire, in 1784. The Legislature was in session at Exeter; and on calling at the President's lodgings, he was told that he had stepped into an adjoining room. Impatient to pay his respects to the Chief Magistrate, the vivacious Frenchman rushed

forward, in spite of the friendly interposition, which would have staid his steps, till he came suddenly and unexpectedly on the venerable President, whom he found seated quietly in the kitchen corner, eating—not a piece of Christmas pie, but the humble repast of a bowl of hasty pudding and milk.

February 18th, 1829. “If the old would be happy, they must not suffer the energies of their minds to stagnate. They must continue those pursuits of which their declining age is capable, and exercise their powers on such subjects as most deeply interest and engage their attention. Indolence, whether of body or mind, is injurious in every stage of life; but, in old age, it never fails to break down the intellect, and degrade the moral powers.”

May 31st, 1829. “My health has, this spring, considerably declined. My memory is still retentive, except as to names. These are often recollected with difficulty. My imagination begins to fade; and, though I cannot perceive that my judgment is much impaired, it requires more time for me to form an opinion on particular subjects. My habits of industry remain in full force. I am uneasy when not employed. The prospect of approaching dissolution does not disturb the quiet tenor of my course to the grave; but it doubles my diligence to perform my appointed task.”

December 31st, 1830. “I have long had but little confidence in physicians, and have seldom employed them. Between a good and a bad physician there is a great difference; but very little between a good one and none at all.

‘Throw physic to the dogs,’ says Shakspeare ; and I am much of his opinion.”

December 31st, 1832. “My eyes begin to fail. I cannot, without an effort, read after sunset, or by candle-light. The loss of sight would be to me a great calamity. I fear I shall be obliged to abandon reading and writing in the evening. Last May, I was apprehensive that my taking snuff was injurious to my health. In weaning myself from it, which it took me several months to do, I suffered much ; but I now feel no inclination to return to it.”

June 25th, 1835. “I require a longer time to form an opinion than I formerly did ; but, when formed, my resolution to adhere to it is still strong and decisive.”

January 1st, 1837. “The writing of letters I have almost abandoned. It is nearly nine months, since I have made a note in my journal respecting the books I read. In a word, my time and thoughts are devoted to a single subject, my biographical sketches.”

June 25th, 1837. “For the last twenty years, I have set every evening a bowl of water at the foot of my bed, and in the morning washed my feet in it, and wiped them dry. In winter I have sometimes to break the ice in the bowl. I have found this practice very beneficial. My appetite is good, and I sleep well at night. I rise, in summer, before five in the morning, and retire between nine and ten at night. My hair, which, in early life, was thick and very black, has become thin and grey, but not white. I am not so erect as formerly, but am now five feet and ten inches high. There is one habit which I formed in early life, which I have constantly practised, that of waiting on myself. It is in general easier for me

to do this than to require a servant to wait on me. I speak here of the thousand little things, which occur in daily life, which I can do for myself easier and better than a servant can. By waiting on myself I avoid the vexation occasioned by his delay or his carelessness, and profit by the exercise which it gives me."

February 7th, 1838. "It requires more time and labor to perform as much as usual ; and, what is worse, when done, it is more feeble and imperfect than formerly. But I still preserve my former habits of industry and application."

To Professor Rafn, of Copenhagen, he wrote, (July 9th, 1838:)

"I fear that I shall not be able to contribute much, if any, assistance to your Society. I am too far advanced in life, being now in my eightieth year, to collect information, or investigate the facts relating to the early history of my country. I feel sensibly the debility which accompanies old age ; but, I thank God, I bear it with equanimity."

In September, 1839, he had a severe attack of cholera morbus, which it was thought for some time would terminate fatally. The physician—the first he had employed for many years—pronounced him in danger. He thought so himself. "My mind," he says, "though feeble, was calm ; and I felt as willing to die, as to sleep, or rest when weary." He gradually recovered his strength, and returned again before the close of the year to his usual avocations.



June 25th, 1840. "I have this day entered the eighty-second year of my life. The infirmities, deprivations and evils of age have increased upon me. My mental powers are diminished. My decision of character is still strong and vigorous. I am habitually industrious, and 'temperate in all things.'"

November 9th, 1840. "I thought it my duty to attend the town meeting, and vote for the Harrison Electors of President and Vice-President. I am now older than my father was when he died. I have frequent attacks of rheumatism, and almost daily pain. My mental faculties have suffered a gradual decay. I hope I shall not survive the use of them. Their loss would render life useless to me, and burdensome to my wife and children."

June 25th, 1842. "I have this year suffered more pain, and experienced more languor and debility, than in any preceding year of my life. I contemplate the prostration of my mental faculties with regret, but my death with entire resignation."

His health, always delicate, seemed, on the whole, nearly as good at eighty as it had ever been. His eye was not dimmed, nor his natural force abated; nor was the alacrity of his spirit, or his extraordinary conversational ability, at all impaired. Though he sometimes forgot the name of a person, or a place, his memory of events, whether recent or more remote, was still ready and accurate; and his quickness of repartee, and his unlimited command of language and illustration, excited the admiration even

of those who knew him the best. His seasonable retirement from business had given a long and serene evening to the close of life, after the laborious occupations of its earlier hours: and the studies in which he had then engaged saved him from the listlessness which creeps over the declining years of men of active habits, retired from business with no taste for reading. He had still the same quickness of perception, rectitude of judgment, and vivacity of manner, which had given such force to his character in earlier life.

But the infirmities of age now began to steal upon him, by a gradual but sure advance—painful at times. At the age of eighty-five, his memory had lost its hold on recent occurrences, though still accurate as to earlier events. This failure of memory did not, as yet, affect his judgment, or his perceptive faculties. It was curious, indeed, to remark with what force and acuteness he would discuss any subject proposed to him, and yet half an hour afterwards not perhaps recollect that it had been even mentioned in his hearing.

As months passed on, it was painful to watch this gradual overclouding of the intellect, the light of memory fading from the mind, and leaving, finally, only flashes of former recollections—the embers of decaying fires. He was himself conscious of the melancholy change; and, on the occurrence of some unexpected failure of memory, or confusion of ideas,

an expression of mingled surprise and regret would escape him, followed by the utterance of a resignation at once striking and pathetic. The decay, however, was so gradual, that he felt it perhaps less sensibly than we who witnessed it. Body and mind shared the same decline, each growing weaker to the close. After he had ceased to write, he continued for some time to read. But it became apparent, by degrees, that his reading was to little purpose, other than to pass away the time. His mind, though still inquisitive, had lost its power to retain what he read; and at length even this, the last, as it had been among the earliest and most cherished of his employments, failed to interest or to amuse him. He had now ceased to labor; and, as life and labor were with him synonymous, he soon ceased also to live. The brief interval of inaction which followed, was but the composing of the limbs to rest,—the relaxation which precedes sleep. Full of years and honors—satisfied with life—he was now ready for his departure. Some extracts from entries made by me, at the dates respectively named, will bring us to the period of his death.

June 25th, 1847. “He is eighty-eight years old to-day. Though infirm, he is able to go about the house, and extends his walks occasionally to the garden, or the barn. I visit him twice a-day. His appetite is good, and his bodily health not bad for his time of life. But his memory is much impaired.

He will sometimes talk of old events with accuracy ; but more frequently times, places, and persons are confounded ; and what is true of one is told of another, with circumstances belonging perhaps to a third. Yet he often speaks, and even reasons, on particular subjects, with a good deal of his old vivacity and acuteness. He is quick to mark the fallacy of any remark made in his presence, and will often draw the line of distinction between truth and error as clear and sharp as in his best days ; so that strangers, who converse with him for a short time only, go away with admiration at this unimpaired vigor of mind in so old a man. His hold on life is apparently very slender,—sometimes it seems all but gone. Yet, like a withered leaf which has hung trembling all winter upon the tree, there seems no reason why one breeze should detach it more than another.”

March 4th, 1848. “ My father is much affected by the death of his old friend, John Quincy Adams. I found him this morning in tears, with the newspaper in his hand, reading the account of the death, and of the last honors paid to his distinguished friend. He repeated several times very emphatically : ‘ He was a great man—a good man—an excellent man.’ He was so much affected by it, that we endeavored, though in vain, to keep the accounts from him.”

Dec. 28th, 1848. “ On my return from Boston, last week, I found my father much altered in his appearance, and much indisposed. Thursday, the 21st, while conversing with the family, he suddenly stopped, turned pale, and seemed about to fall from his chair. He was immediately removed to his bed, and it seemed, for the moment, as if life had departed. He, however, revived with a sudden start, as if from a fit.

His physician thought that he had no disease upon him, beyond the natural debility of old age. He did not think that he could continue long. Since that, he has been growing weaker, yet with occasional improvement. At times, his mind seems bright and clear, and he indulges in his usual acute and lively remarks, not without an occasional touch of humor or sarcasm. I sat up with him on the night of the 23d, and again on the 26th, when it seemed hardly probable that he would live till morning. Till about midnight, he was very restless, and talked much and earnestly, but incoherently at times. When more calm, he spoke, among other things, of his long accustomed labors, the materials he had collected for his Biographical Sketches, and the lives he had yet to write. He said he had written with freedom and impartiality of men and measures, telling, in every case, what he believed to be the truth. He hoped some of the sketches might be found fit for publication. This morning, he seemed better than he had been. He got up, and was able to sit in a chair for fifteen minutes. While he was sitting, my mother offered him a pinch of snuff. He stretched out his hand, but withdrew it again, and said, smiling: 'The woman which thou gavest me tempted me.' He added, smiling again: 'But Adam was a weak man to yield to temptation.' He afterwards quoted a passage from St. Paul, on the immortality of the soul; spoke of dreams, and said that the phenomena of dreaming seemed to show a state of being, of which we had no other experience. He soon after became exhausted, and we restored him to his bed. His habitual kindness of disposition, and his desire to be as little burdensome as possible, appear in the frequent apologies which he makes for the trouble he

gives us. 'I thank you,' uttered in the kindest tones, is one of his most frequent expressions."

Dec. 31st. "It is touching to remark, how, in the decline of the understanding, his moral powers seem to retain their rightful supremacy. The intellect has no longer its accustomed strength; but the kindly affections, the moral feelings, come out in yet stronger relief. He seems better to-day, or at least stronger. He was dressed and sat in his chair the greater part of the day."

Jan. 5th, 1849. "He has been gradually gaining strength for several days past, and seems now likely to get over this attack, though still very weak."

He did accordingly recover; and seemed, for a time, to be quite as well as he had been for some years before. The death of his youngest son, (May 1st, 1849,) moved him greatly, and with a stunning effect. The funeral was from his house, and he seemed, at times, at a loss to understand why the house was so full of strangers, and what they were about. After supper, he said to me that he wanted to go home, evidently thinking that he was in some strange place; but this was a momentary illusion; and he soon after talked with his usual self-possession and equanimity. "It is," he said, "all for the best. Jay has gone before; but I shall not be long in following. This is a good world; but there is a better one where he is gone."

Aug. 6th, 1850. "For the last month or two, my father has been gradually losing his sight. It is a year or more since he complained that he could not find glasses that suited him. It now appears that cataracts are growing over one, if not both of his eyes. He walks but little, and steps slowly and with caution, as if afraid of falling. Two or three months ago, he set out alone to come up to my house, but was met half way, and persuaded to return. About a month ago, he rode up to see his brother Daniel, who was sick. Weakened as his mind is, it seems to have lost none of its activity. It is not the torpor, but the debility, of the brain; nor is this weakness perpetual. He often reasons correctly, and makes sound and sensible remarks. His language, too, is accurate, and his use of words pure. If at any time he uses a word or expression which is improper, he pauses to correct himself, and shows by the phrase finally selected that the idea was in the mind, though the word proper to express it had at first escaped him. It is not, therefore, the parrot-like repetition of words not understood, but the deliberate utterance of comprehended thought, and of a purity of taste and accuracy of expression, which survive the knowledge to which they were once auxiliary."

On the third of December, he was suddenly taken ill, having been, for some time previous, as well as usual. He, however, rallied in a few days; and seemed to be recovering his wonted strength, so much so, that I went to Concord on the 9th to attend the Constitutional Convention, of which I was a member,

thinking him, though feeble, in no immediate danger. He was, the next day, strong enough to sit up in his bed, and it seemed probable that he would regain his usual state of health. The following account of the closing scene is from the diary of one of his granddaughters.

Dec. 15th. "He is very mild and pleasant, characteristically afraid of giving trouble to others, and thanking every one who does him the slightest service. If giving way for a moment to any impatient feeling, he checks himself, and says — 'But it is all right.' He is so patient and uncomplaining, he seems so calm, and looks so peaceful, that it is a comfort to be with him. His mind often wanders back to his youthful days. As his sight is nearly gone, I asked him, on coming in to-day, if he knew me. He said : 'Yes ; you are my sister ;' and he afterwards asked me if I thought he could do anything to make his father and mother more comfortable in their old age. Even when not recognizing others, he knows grandmother's voice, and answers her with great tenderness. He repeated to-day passages from Scripture, hymns, and other poetry. His quotations seemed to have reference mostly to his own situation."

16th. "One of his grandsons, who had been absent about two years, came home. He knew him, was glad to see him, and made some inquiries respecting his travels."

20th. "There was an evident change for the worse ; and he continued to grow weaker."

22d. "We were all with him through the day ; and, when the others went home, I staid, to sit up with him



through the night. He was quiet, and seldom spoke ; but his breathing was faint and irregular. At length, as I sat listening anxiously to every breath, I heard him suddenly breathe a little harder and quicker than before. I sprang to the bed-side in time to see his last gasp. He died without a struggle or a groan, or the slightest movement, except of his lips. As I stood over him, he looked so calm—it was so much like sleep—that I could not believe he was gone. I held my breath to listen, and watched anxiously for some sign of life ; but none came. It was eight minutes past eight in the evening of the 22d of December when he left us. I was the only member of the family present at the time. I sent immediately to call the others. When my uncles came, the question was, how we should communicate the event to grandmother, who had been much agitated on leaving him a few hours before. It was decided that I should do it, which I accordingly did. I found her prepared for the event, and, though much afflicted, she bore it better than we feared.”

At the time of his decease, I was at Manchester, on my way home from Concord, having received notice of his increasing danger. A storm, which rendered all travelling impossible, prevented my reaching Epping till two days later. He was already in the coffin when I arrived. There was still a faint smile around his lips, a tranquillity of expression, a serene composure, which seemed, in its mysterious silence, full of that peace which passeth understanding. But there was more than the serenity of death in his

countenance,—a look at once overawing and attractive, calm, placid, yet noble beyond what the living form had recently worn—as if the spirit, in departing, had left that imprint of the soul stamped in the lineaments of the face,—a serene and pathetic beauty imparting to the beholder something of the beatitude into which it was itself about to enter. It seemed not so much the sleep of death, as of a higher life,—a light as of the dawning of a brighter day. As I stood over him in awe and reverent admiration of that benign and venerable face—venerable at once and lovely—with its silent, unchanging, and inexplicable expression, as of a new and a holier life, I felt, while laying my hand on his smooth, broad and tranquil brow, the truth of that saying of Novalis, “We touch heaven when we lay our hands on a human body.” Grief for his departure was succeeded by a deep feeling of resignation—a solemn joy at this happy transformation from pain and suffering, from the cloud and darkness which hang over the valley of the shadow of death to the repose and the splendors of a purer and happier day.

The funeral was on the twenty-seventh, five days after his decease; and, though the roads were still blocked with snow, it was attended by a great concourse of his friends and neighbors. The Rev. Andrew P. Peabody preached on the occasion a sermon on Old Age, presenting consoling views of the

happy termination of a long life of public service and private virtue, "so successful in its active days, so serene and happy in its retirement, so richly favored in its domestic relations, so tenderly cherished even to its latest hours." He was then borne by eight of his neighbors from the house where he had lived for sixty-two years, to the family cemetery hard by.

Fifteen months later, we followed, with affectionate sorrow, to the same retreat, the companion of his manhood, and the solace of his old age, who came at length in silence to repose by his side, in a union, indissoluble in death, as it had been happy in life.

A granite column has been since erected by the filial piety of their sons, to mark the spot where they rest.

The death of Governor Plumer called forth interesting notices of the event from various parts of the country, showing that, though he had long withdrawn from the public view, his character and his services were still fresh in the minds of the people.

The Convention for revising the Constitution of New Hampshire was in session at the time of his decease. The following extracts from its proceedings will show the notice which they took of the event.

"On Friday, the 27th of December, 1850, the Honorable Ichabod Bartlett rose in his place and announced the death of the late Governor Plumer, as follows :

“MR. PRESIDENT:—Fifty-eight years ago, an assembly of one hundred of the most distinguished statesmen and patriots of New Hampshire met here and formed that Constitution under which our government has been so admirably administered, and our people so eminently prospered for that long period; and we are now gathered to reply, if possible, to the yet unanswered question, whether any alteration or change can now be made in that venerable instrument, better to adapt it to the lapse of time. When we came here, on the 6th of November, all the members of that Convention, save one alone, had passed from the scenes of time. Since that period, the last survivor of that august assembly has descended to the tomb, and given to us another admonition that even ‘the path of glory leads but to the grave.’

“The Honorable WILLIAM PLUMER died at his residence in Epping, on the 22d of December instant, in the ninety-second year of his age. This event cannot fail to make a deep impression upon the mind of every citizen of New Hampshire, and especially demands from us a public recognition of the solemn dispensation of Divine Providence. Governor Plumer had, for a very long period, filled a wide space in the regard and affections of his fellow men.

“He was born in Newbury, on the 25th of June, 1759. At about the age of eight years, he removed with his father to Epping, where he resided till his death. At an early age, he was elected Representative to the Legislature from that town, and held that office for eight years; for two years of which time he occupied the Speaker’s chair. He was afterwards elected to the Senate of this State, in which body he held the office of President.

“In 1792, he was chosen a delegate to the Convention to revise the Constitution of the state, and by the imperfect journal of that Convention, which has been in our hands, we see with what diligence and success he labored to leave the impress of his patriotic mind upon that instrument, which, after the lapse of more than half a century, we find it so difficult if not impossible to amend. In 1802 he was elected to the Senate of the United States, where he served till 1807. In 1812, 1816, 1817, and 1818, he was chosen and served as Governor of New Hampshire; and in 1820 was chosen an Elector for this State of President and Vice-President. In 1787 he was admitted a member of the Bar, and for twenty years practised his profession with high reputation for legal learning, integrity, and talent. In all his various public offices he watched with such vigilance, and labored with such perseverance, for the interests and welfare of his constituents, as to secure their high esteem and lasting gratitude.

“As an humble expression of our regard for his memory, I ask for the adoption by the Convention of the following resolutions :

“*Resolved*, That in the death of the Honorable William Plumer the state has lost an eminent statesman, a patriotic citizen and an honest man.

“*Resolved*, That for his long and faithful public services and exemplary virtues as a citizen, the whole people should cherish his memory with affectionate regard.

“The members of the Convention passed the resolutions by unanimously rising in their seats; and as a public mark of respect, on motion of Mr. Atherton, the Convention adjourned.”

Governor Plumer was one of the few remaining survivors of the revolutionary period,—a sample of

the kind of men by whom that crisis, and the scarcely less dangerous one which immediately followed the revolution, were encountered. Debarred in early life from the advantages of education, he was essentially a self-made man. Deriving his knowledge from observation more than from books, though he was ultimately a well-read English scholar, he showed always the freshness of an original observer, and he never failed to express clearly the truth which he had himself seen and verified. It was his sincerity of conviction, added to a fearlessness of temper which never shrank from the expression, on all suitable occasions, of his real opinions and sentiments, which gave uncommon weight to what he uttered, and left no one who heard him without the strongest conviction of his earnestness.

His attention was ever on the alert, and nothing passed in his presence which he did not inquire into, and, if possible, understand. This steady, unremitted pursuit of knowledge was strong in him to the last, quickening his ear, and strengthening his memory.

His humanity was ever active. Nothing offended him more than wanton cruelty to man or beast, and, though careless of his own exposure to danger or to toil, he was tenderly regardful of the labor and the sufferings of others. His politeness, understanding by that word a courteous regard for the feelings of others, was uniform and enduring. Even his

children, who visited him every day, were helped by him to a chair, and were not permitted to depart without his waiting upon them to the door. This he did, and would do, with affectionate assiduity, notwithstanding their remonstrances, almost to the very close of life. The old man of more than fourscore had forgotten none of the amiable attentions of his younger years.

He was fond of society, and the visits of his friends were always acceptable. They seemed to rouse him to new life, and he conversed as if conversation were his only pleasure. "Dr. Ripley," says Emerson, "knew every body's grandfather." This was true of my father. In early life he sought the company of the aged, and in age he was fond of the young. The company must have been more than commonly select, into which his entrance did not bring some new element of enjoyment or instruction, not by loud or obtrusive demonstrations, but by the extent of his information, the readiness and vivacity of his discourse, and the unstudied ease and urbanity of his manners.

Utility was the great object of his pursuit, and he showed some impatience of studies which seemed to have no relations with life. His own knowledge was all of the practical kind. He seemed to reject from it whatever could not be turned to some practical purpose. Matters merely curious had for him very

little attraction. This indifference was, perhaps, carried by him sometimes too far, as it is not always easy to foresee to what uses knowledge, apparently useless, may, in the progress of events, be put.

In person, he was tall and erect, his complexion dark, his face rather long and thin, his hair black, and his eyes black and sparkling, with a look and a smile—when he was pleased himself, or would please others—expressive of the most winning good will and kindness. In old age, his thin grey locks, the mild fire of his eye, and the smile on his lips, gave him a beauty and grandeur, at once conciliatory and commanding. His eye was, perhaps, his most expressive feature. It seemed on fire when he was engaged in debate, or in earnest conversation. Yet there was a gentleness about it, which made it as attractive in his milder moods as it was terrible in his anger.

His voice was clear, strong, and flexible. He was one of the best readers, if not the very best, I ever knew, putting the writer's meaning into his tones, and making the hearer forget all but his subject. On Sunday afternoons he was accustomed to read to us a sermon from some old English divine,—Barrow or Taylor. On such occasions, he did ample justice to his author; and "truths divine came mended from his tongue." We were then required to read a chapter from the Bible. On this he would question us as to its meaning, and accompany his inquiries with



remarks and information, often curious and original, and always evincing a knowledge of Scripture, and a power of comparing one passage with another, and of thence eliciting its meaning, which I have never seen surpassed. These Sunday evening recitations, which were kept up till the family circle was broken by the marriage of my sister, and by my own removal to Portsmouth, were always regarded by us with great interest, and were equally pleasant and instructive. His remarks were not so much the result of deep learning, which he did not possess, as of a rare sagacity which revealed to him what profounder study made known to others.

I close this labor of filial piety with mingled feelings of pleasure and regret,—of pleasure that it is accomplished, of regret at the manner in which it is performed. I commit it, with its many imperfections, to the charitable construction of friends, who know under what discouragements, in sickness and suffering, it has been pushed steadily, but slowly, forward to its present imperfect completion. To others, the author and his theme are alike indifferent, and can have no claim to attention or regard beyond what the theme itself may possess, as presenting a picture, more or less perfect, of a true man—a man of head, heart, and hand,—of thought, feeling, and action—a man not great, in the sense in which some three or four

in a century are, who leave their stamp on their age or country—not perfect, as being, even in his own opinion, never in the wrong; but yet clear in intellect, warm in affection, upright in purpose, and active and indefatigable in exertion. Such a life, if well-written, might be an encouraging example to youth toiling in poverty and under privation; to manhood tasked with labor and tried by temptation; to old age, cheerful amidst suffering, and tranquil in its pilgrimage, amid the splendors of departing day, down the long valley of the shadow of death.

Fortunate in life, and in death unfortunate only, parent revered, in this most inadequate portraiture of thy many virtues!

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